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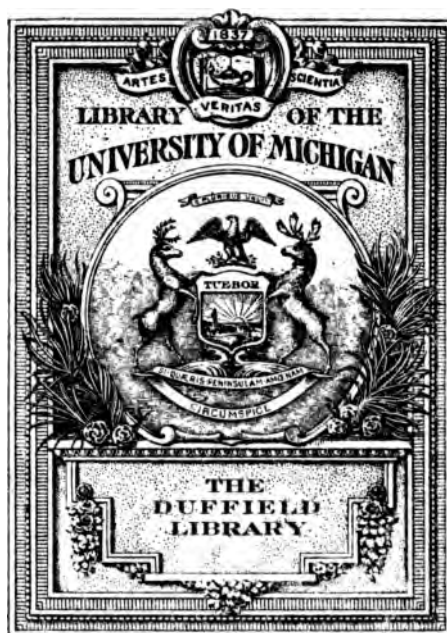
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N.Y.U. - History of Controversy in



THE GIFT OF
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HISTORY
OF THE
CONTROVERSY
IN THE
UNIVERSITY OF THE CITY OF NEW-YORK;
WITH ORIGINAL DOCUMENTS
AND AN
APPENDIX.
BY THE PROFESSORS OF THE
FACULTY OF SCIENCE AND LETTERS.

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HISTORY
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UNIVERSITY OF THE CITY OF NEW-YORK.

THE University of the City of New York had its origin in the counsels of a number of individuals. It was the conception of no one man, or if the conception of one man, the late Rev. Dr. GUNN is entitled to that honor. Its system of instruction as full formed and determined was the result of mature deliberation and enlightened and laborious discussion on the part of a convention, composed of the representatives of literary corporations and other of the most distinguished Literati and patrons of learning in the City and the State.

The Institution was first presented to the public in 1830 as a "University established on a liberal and extensive foundation;" one which should "extend the benefits of education in greater abundance and variety" than were to be enjoyed in any institution previously established; and it was on these "terms and conditions" that "the patronage and subscriptions of the public were solicited" to "this great enterprise."

From all the movements at this period, and the published documents, it is evident there was no ordinary degree of enthusiasm awakened; public expectation was ripe, and public liberality stood ready. So early as July, 1830, "the committee on sub-

scriptions reported the amount now subscribed to exceed the sum of \$100,000."

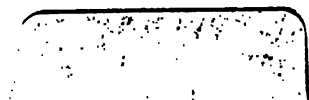
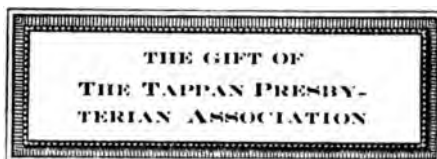
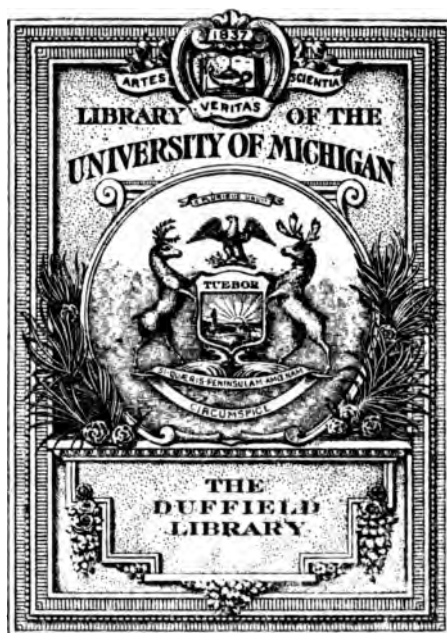
In 1831 Dr. Mathews was appointed Chancellor ; notwithstanding all that is claimed on account of his efforts and influence it will appear from the following statement, that his connection with the University, as Chancellor and otherwise, has proved the fruitful source of embarrassments and convulsions :

1. In consequence of the appointment of Dr. Mathews to the Chancellorship, many individuals of high standing and influence, withdrew immediately, or soon after it took place, from all connection with the institution. The objections urged against him related to his personal qualifications for the office, and a character he had acquired while connected with the Theological Seminary, over which the late learned and revered Dr. Mason presided, as well as in offices and relations since sustained. The Chancellor has indeed attempted to explain this early defection by representing it as the result of a disappointed and baffled infidel movement to prevent the establishment of the institution under Christian auspices! Nothing more would be necessary than to give the names of these men to prove the falsehood of the allegation.

2. On account of his appointment many of the original subscribers refused to pay their subscriptions, and ever since, the subscriptions have been almost wholly confined to his "family, relations, and personal friends." (See Gen. Tallmadge's statement to the public, dated Oct. 1st.) In this great and wealthy city, during eight years, and that too for the most part a season of stupenduous and unparalleled prosperity, when objects of public interest, both literary and religious, have received the most munificent donations, there have been collected for the University, only \$82,530, including \$3,085 interest which accumulated upon a part of this sum before it was applied. Of this, \$53,355 were paid in previous to September, 1833, and only \$26,000 have been paid in during the five years which have since transpired, although within one year of the whole time that the University has been in operation. The original subscriptions and collections were effected through the agency of Dr. Mathews and others.— Since the organization of the University he is well known and is

acknowledged to have been chief, if not sole, financier and agent. (See Gen. Tallmadge's statement to the public, dated Oct. 1st.) It appears from the above, that a fair dawn was suddenly overclouded, and a sad check given to public liberality. All the monies collected do not amount to the original subscription of 1830. Either Dr. Mathews has obtained no new subscriptions since his appointment to the Chancellorship, or he has been mournfully unsuccessful in collecting the \$42,570 which remained due, after deducting \$7,050 which subscribers refused to pay upon the original subscription, Sept. 3d. 1833, according to the report of a committee of the council made at that time. This sum of \$42,570 is made up in whole or in part of the alledged nominal subscriptions. [Appendix A.]

3. Ambition, enterprise, activity and management will be generally conceded to Dr. Mathews. "It is understood to have been a condition of the original subscription to the funds of the University, that \$100,000 must be subscribed before any subscription would be payable." The nominal subscription made up the stipulated amount and the collections were begun. Upon these subscriptions, doubtful and inadequate, and upon collections still more inadequate, Dr. Mathews made the purchase of a lot of ground for \$40,000, and succeeded in erecting and completing a large and magnificent building, "an admitted ornament to the city." As the capital upon which he based his operations was limited, he had to enter upon a system of laborious and ingenious financiering. This system, however ingenious in its conception, and however laboriously and perseveringly conducted, as might have been expected, has been attended throughout with mortifying and discreditable circumstances, and has, in the end, proved a signal failure. Various financial artifices have been employed—money has been borrowed to pay money borrowed—pledges have been unredeemed—promises and engagements unfulfilled—and consequently credit ruined; and a debt created after paying out the \$82,530, amounting to \$175,000—of which \$110,000 is secured by mortgages on the building and the individual bonds of several trustees; and \$65,000 "is a floating debt, due in small sums to mechanics and others, who are urgently pressing their claims."



have affirmed their ability to bring forward the testimony of many respectable individuals to the same end.

6. The Institution has been twice convulsed in six years, by explosions with bodies of the Professors, besides individual difficulties, arising from alledged misconduct on the part of Dr. Mathews.

At the beginning of the second year three Professors resigned, and made an exposition to the public in a pamphlet. Soon after another Professor and a Lecturer on History resigned. More recently two Professors of Modern Languages resigned, all on account of dissatisfaction with the Chancellor.

The last explosion is that which has for some time claimed a portion of public attention. The affair comes up under the following aspect—seven Professors making up with one exception, the entire corps of undergraduate Instructors, and the body to whom was committed the discipline of the Institution, have either legally or illegally been ejected from the duties of their Professorships. The Council under the hand of their President affirm, that this ejection was not originally intended as a direct movement, but was merely the necessary consequence of a system of retrenchment, which had become necessary from the embarrassed condition of the University, and that the twice repeated act of ejection was the consequence of the non-submission on the part of the Professors, to the preceding acts. The Professors rejoin that this ejection was made at the very time, and in the very face of an attempt, on their part, to bring on before the whole Council, an investigation into the affairs of the Institution, in connection with the conduct and character of the Chancellor, Dr. Mathews, and that the ejection itself was intended as a counter movement in order to relieve Dr. Mathews from the investigation asked. The Council reply to this, that the charges were brought forward as a counter movement to the scheme of retrenchment, and in evidence of this state, that the movement for an investigation was subsequent to the scheme of retrenchment. They also state, that every reasonable opportunity was offered to the Professors for bringing forward their charges, in referring them with their charges to a Committee, of which John Lorimer Graham, Esq. was

Chairman. Upon this issue between the majority of the Council and the seven Professors, it may be remarked—

First.—It does not seem reasonable that the movement for an investigation was a counter movement to the retrenchment scheme, because it could not prevent the retrenchment in any event, arising from the investigation. Retrenchment was still possible after the decision of the question between the Chancellor and the Professors. But it does seem reasonable that the retrenchment scheme was got up to stifle the investigation, because after the Professors by its operation should be removed from their Departments, they could no longer claim the right or privilege of appearing in any way in the Court of the Council.

Secondly.—The Professors had no reason to apprehend that such a scheme would go into effect. As a retrenchment it seemed too trifling to be resorted to by grave and considerate men, as an expedient for relieving the immense embarrassments of the University—and was regarded only as one of the many idle and ineffectual schemes of Dr. Mathews. When he spoke of it to any Professor, he was always careful to represent to him that his department was not aimed at in the contemplated invasion. To Professors Patton, Tappan and Proudfit, he had particularly given these assurances, and to Professor Tappan he made application in the month of May last, to undertake some additional instruction, and received for reply that Professor T. would resume the charge of the Belles Lettres Department.*

* Professor Tappan had the entire charge of this department in connection with his own during four years, and the charge of the two higher classes one year more. When Mr. Mason was mentioned to the Board of the Faculty as about to be elected a Professor, the Chancellor stated positively that he was to be confined to his endowment for compensation. Not long after, the Chancellor requested Professor Tappan to give up the charge of the lower classes in Belles Lettres to Professor Mason, at the same time stating that Professor Mason would be occupied in his own department only two or three months in the year, and was desirous of additional employment, but that under the proposed addition to his labors he was still to be confined strictly to his endowment. Upon this stipulation Professor T. yielded up at once the two classes,

When the Professors were informed soon after the meeting of Council on the 26th of July, that resolutions had been offered by Dr. Mathews, proposing a reduction of the departments, it scarcely drew any notice or elicited any remark. The scheme was not understood as effecting the abolishment of the old and the establishment of new departments. The possibility of such a measure was not dreamed of until it was done Aug. 30th. The Professors always believed their offices to be on a more certain tenure, nor did they apprehend that there were men in the Council who could undertake measures so rash and violent. They were confirmed in these sentiments too by the able and lucid Report of the Finance Committee, made on the 5th of June last. This Committee most decidedly stated their conviction that "the expenses of instruction could not be further reduced without ruinous consequences; that the salaries were already fixed at the lowest rate, for which the services of competent men could be engaged. That should one of the Professors be dispensed with, the diminution of expense created would be inconsiderable compared with the remaining deficit. That if an increase should take place in the fees of tuition, an increase of expenditure for the purposes of instruction might be contemplated—but that no diminution in that respect could be consistent with the liberal plan of the institution, and the expectation of the public."

Thirdly.—The tactics charged upon the Professors by their opponents cannot be shown to be in accordance with the character, course of life and habits of the Professors. But the tactics charged by the Professors upon the Rev. Dr. Matthews, the Hon. James Tallmadge, and John Lorimer Graham, Esq. cannot be shown to be inconsistent with their character, course of life and habits.

and the next year the whole department of Belles Lettres, to Professor Mason. It appeared, however, afterwards, that at this very time the Chancellor had been making different representations to Professor Mason, and had actually added \$600 per annum to his salary, for less instruction than Professor Tappan had given in this department, and at a compensation amounting to only \$140 per annum.

Fourthly.—The refusal of the Professors to come before the Committee with their charges, can at least be palliated and excused under all the circumstances of the case, as hereafter given in detail. But it is impossible on any ground to justify the refusal to conduct an investigation before the whole body of the Council, and the cutting off the Professors while asking such an investigation. The Professors refused to appear before the Committee only to claim the privilege of appearing before the Council. By this they could gain no undue advantage over an adversary—it was fair, honorable and equitable for all parties. On the other hand by dismissing the Professors without the investigation, the authors of the measure clearly exposed themselves to the imputation of chicanery and injustice, for, whatever they may have intended, they did in fact smother the charges to the full extent of their power.

Fifthly.—The question as to which party belongs the priority of attack, is a trivial one with respect to the Professors, if the charges they bring are grave and well sustained. That they are grave is already apparent from the statements of this paper, and that they can be well sustained the Professors do not entertain a doubt. But in order to satisfy the most querulous on this subject, as well as on all the matters relating to the present controversy, we shall now proceed to give a documentary history of the whole affair.

The unfavorable impressions of the Professors respecting Dr. Mathews, are not of recent date. For years they have been oppressed by a feeling which if expressed in general terms, would be called *a want of confidence*.

From the duplicity and prevarication they had experienced in their intercourse with him, their minds had gradually grown into a *habit* of painful distrust, before any explosion took place. They struggled, by charitable constructions to relieve their own minds, and by forbearance to prevent collisions. In looking at the past we are astonished at what what we have endured. It is not possible to present the circumstantial history of an every-day intercourse through several years—yet it is in this every-day intercourse that the strong and decided impression of a man's character is received. In a concentrated form we have already stated this impression.

The first serious collision with the Chancellor took place in February, 1837.

The Professors were then suffering severe inconvenience from the omission of the last quarter day's payments, an inconvenience which was greatly aggravated by the deceptive promises and engagements of Dr. Mathews.* Immediately before leaving for Albany, he stated to the Faculty, (with many expressions of sympathy for their embarrassments,) that he left a sufficient amount due from rents on the building to discharge all their arrears, and that he had given directions to the Janitor of the University, to collect and pay them over. The Professors waited for some time but *received* nothing, and *heard* nothing from the Janitor. Upon sending for the Janitor they learned that about two hundred dollars had been collected, which the Chancellor had taken with him to Albany, and that less than a hundred dollars remained to be collected. The arrears of the Professors at this time amounted to about two thousand dollars—and this the Chancellor knew, when he referred the Professors to the rents for their dues.

The Professors at once felt that every consideration obliged them to call upon Dr. M. for an explanation of a statement so palpably contrary to facts, and deceptive. The painful office was committed to the senior Professor; and immediately on the return of the Chancellor, was performed, in a manner at once respectful and firm, in the presence of the Faculty. The answer was extremely vague and unsatisfactory. An explicit and full explanation was, however *promised*, but has *never* been given—and Dr. Mathews felt from that hour that the confidence and respect of the present Faculty was lost forever.

From that hour, too, we have reason to believe, he has meditated the *retrenchment* which he has at last, consummated. The plan was broached shortly after—it was proposed to several mem-

* It is well known to all concerned, and *particularly well to the successive Treasurers* that, whoever has borne the title, Dr. Mathews has been *de facto*, Treasurer of the University. This explanation is necessary, to show that we are not charging upon him a responsibility which does not belong to him.

bers of the Faculty, with attempts to prevail upon them to join in it against their associates—each, however, being solemnly assured that there was no design whatever against *him* or *his* department—yet *each* mentioned to others as one whom it was expedient or necessary to remove. The shallow manœuvre was however seen through and despised. It certainly excited, in the minds of the Professors, no apprehension, and was regarded merely as an imbecile form of revenge characteristic of the man, and called into action by the perception that he was known and read of all. The only convert to it in the Faculty was Professor Mason. It met with as little favor from the Council. The only member of that body, as far as we know, who manifested any predilection for it, was Gen. James Tallmadge. We firmly believe that the Council, *as then constituted*, could never have been brought to sanction so infatuated and suicidal a measure.

From the time of the above mentioned occurrence until the next February, making the full period of a year, the Professors received occasionally, and at long intervals, only small sums, scarcely sufficient to give any relief.

The Chancellor during the whole summer continued to promise, and even made express appointments for the payment of their arrears, only to disappoint them. In the beginning of Oct. following, to which he had referred them as the period when, without the possibility of further disappointment they should experience relief from the fees of tuition—he suddenly abstracted these fees* to meet the interest of a mortgage upon the building, in violation of a resolution of the Council, which had appropriated them exclusively to the payment of the Professors. The Professors then prepared a statement of their affairs to be laid before the Council. The paper was drawn up with entire forbearance. Although they felt deeply aggrieved by the conduct of the Chancellor, all severe expressions of censure were withheld. This paper was at first laid before the Finance Committee, upon the representation of the

* The fees of tuition for the whole year, are, in the University, paid in advance.

Chancellor, that this Committee was composed of eleven leading men of the Council—to use his own expression, “the bone and sinew of the Council,” and that they would embody it in a report of their own, in such a way as to secure speedy and decisive action on the part of the Council. It was soon after ascertained that several gentlemen, whom he had mentioned as belonging to it, did not belong to it, and that the Committee held frequent meetings composed generally of only two or three individuals besides the Chancellor. After waiting five weeks without receiving any official communication from or through the Committee—a copy of the paper under strong opposition from him was sent to the Council. After this, several communications passed between the Faculty and the Council. One of these communications, signed formally by Professors Tappan, Patton, Proudfit, Mason, Beck, Hackley, Norton, and Gale, and dated February 12th, 1838, and sent to the Council through Gen. Tallmadge, after stating the long accumulation of arrears, during the year then past—the disappointments which the Professors had suffered at the hands of the Chancellor, and the embarrassments which in consequence beset them daily in the discharge of their duties, closes with the following paragraph—“Under these circumstances we cannot allow any considerations but those of high and honorable duty to influence us. We wish not to relinquish an enterprise which has hitherto promised so much, as long as a hope of its ultimate success remains, nor can we turn loose the young men who have collected around us, and who, having paid their fees for the year, hold the Institution under most solemn obligations to carry on its operations. But on the other hand can we hope to hold up this whole machinery under present auspices. Is not some movement to our aid imperatively necessary? We earnestly ask of the Council whether the affairs of the University do not demand a thorough investigation, and the application of an effectual remedy?” By “present auspices,” the Professors meant to refer most distinctly to the Chancellor, and by an “effectual remedy,” as the result of “a thorough investigation,” they meant with equal distinctness to refer to his removal. They believed then as they believe now, and that *unanimously*, that no other remedy could

prove effectual. How the Council understood the Professors will appear from the following documents :—

The paper of the Professors from which the foregoing extract is made, received the following reply :—

"New-York, Feb. 15, 1838.

PROFESSOR R. B. PATTON,

Dear Sir :—I am directed to inform you that at a meeting of the Council of the University, this evening, the Rev. Dr. Cox, W. B. Crosby, Esq. and myself, were appointed a Committee to confer with the Faculty, and represent the views of the Council on the subject of the communication from the Faculty, this evening brought before them by their President.

The above Committee propose to meet the Faculty at such room as you shall appoint in the University, on Saturday next, the 17th instant, at half past 4 o'clock, P. M.

Will you have the goodness to notify the members of the Faculty, to make the requisite provision of a room for the proposed interview, and oblige yours,

Dear Sir, very respectfully,

on behalf of the Committee,
ABSALOM PETERS."

The following is the minute of the meeting held according to the above notification :

FEB. 17, 1838, half past 4 P. M.

"The Faculty met the Committee of the Council according to appointment. The Committee were all present, viz : Rev. Dr. Cox, Rev. Dr. Peters, and William B. Crosby Esq. The Secretary of the Faculty being absent, Professor Tappan was appointed Secretary pro tem.

The Committee, then, in the name of the Council, assured the Faculty of the unabated esteem and confidence with which the Council regard them. That the Council appreciate their pecuniary and other difficulties ; that at the proper time they will hold themselves ready to adjust satisfactorily every just subject of complaint.

That they can hear nothing at present involving an impeachment of the Chancellor.

First—Because he is absent. *Secondly*—Because any convulsion of the Institution, at the present time, must endanger the application now pending before the Legislature.

They expressed their strong conviction that the existence of the Institution depends upon the Faculty holding together, and carrying on in the best way they can, its internal operations, and they desired the Faculty to communicate to them their determination on this subject.

That the Council do not believe that there has been any dishonesties committed in relation to the funds, but that there has undoubtedly been great mismanagement—a great want of economy, and unwise appropriations.

That in order to remedy the embarrassments which have resulted, and to prevent the recurrence of similar embarrassments, the Council are about to divorce the management of the finances from the head executive officer of the institution, and to commit them to a Committee of Finance and a responsible Steward, according to a plan which the Council are now digesting.

That the immediate resources of the Council, consist of a subscription of \$18000, and the expectation of an appropriation from the Legislature of the State—and that the Council will appropriate the first monies realised from these or any other sources to the payment of the Faculty.

The committee then requested information respecting the removal of the fees of tuition from the hands of the assistant Treasurer, Professor Patton, about the beginning of October last—and also respecting the sums actually paid to the Professors from monies subscribed by the Council, Dec. 8th, or about that time.

Thereupon the Committee dissolved the meeting, and the Faculty adjourned.

H. P. TAPPAN, Sec. pro tem."

In reply to the request of the committee to know the feelings of the Faculty as to the practicability of continuing the course of instruction under the existing pressure, the following note was sent a few days after :

To the Committee of Conference with the Faculty of the University:

TUESDAY MORNING, FEB. 20, 1838.

Gentlemen :—In reply to the inquiry proposed by the committee at the conclusion of our interview on Saturday last, we beg to assure you that all the motives which have hitherto sustained us in struggling with the difficulties of our situation, have received new strength and encouragement from the assurances you have given us of sympathy and co-operation on the part of the council ; and that, highly appreciating, as we do, the disinterested perseverance of the council in this enterprise and the noble sacrifices which they have personally made towards sustaining it, we should feel it a dereliction, alike of duty and of honor, to abandon it.

We are unwilling however, to promise more than we may be able to perform. Stern necessity has fixed a limit even to the possibility of endurance. It is with sincere reluctance that we add this remark, and we are sure that it will be appreciated by yourselves and by the council.

Permit us, gentlemen, to add the assurance of our high gratification at the progress and result of the interview with which you have honored us. It has left us with a cheering conviction that those whose public spirit and liberality first gave birth to the University and have supported it amidst its early vicissitudes, still feel an unabated zeal for its interests, and an unshaken determination to sustain it through all its embarrassments. We are resolved, however, *parcere verbis male ominatis*, and to infuse into our future exertions in your service, the fresh hope and energy, with which, we are happy and grateful to say, you have inspired us.

We are, gentlemen,

With sentiments of the highest respect,

Your obd't. servants,

(Signed in behalf of the Faculty.)

J. PROUDFIT,
ROBT. B. PATTON.

Rev. S. H. Cox, D. D.; A. PETERS, D. D.; W. B. CROSBY,
Esq., *Committee of Conference with the Faculty, &c.*

These documents go satisfactorily to show that an investigation of the Chancellor's character and measures were not an idea which sprung up to meet the retrenchment scheme. Soon after this interview with the Committee of the Council, the Council completed the arrangement by which the management of the finances and the other interests of the University were "divorced from the executive head of the institution." The affairs of the University were distributed among the following committees: a Committee on the Faculty of Science and Letters; a Committee on the Faculty of Law; a Committee on the Faculty of Medicine; a Committee on the Building; and a Committee of Finance. A Bursar of the institution was also appointed. When the Chancellor returned from Albany he was evidently chagrined at the changes which had been made during his absence, but with his usual art pretended to approve of them. One of his first measures, however, was to defeat the very arrangement of the committees. He endeavored to combine the three Committees on the Faculties in an action upon one Faculty alone, viz: The Faculty of Science and Letters. This was not acquiesced in by the Committee on the last named Faculty. The Chancellor, however, by contriving to call joint meetings of all the Committees on

the Faculties, succeeded in bringing together, at least, John Lorimer Graham, Esq. and himself, and between them mainly, it is believed, was the celebrated retrenchment scheme concocted.

On the 17th of May, this joint Committee reported that they would be ready to submit an arrangement which they were digesting as soon as the Finance Committee should have made their report. These intimations scarcely drew any notice from the Faculty. They heard that the Chancellor was endeavoring to form a joint Committee, but from the information received from members of the Council they were led to regard both its formation and its measures as mere idle attempts of the Chancellor to baffle the late judicious measures of the Council.

On the 5th of June, the Finance Committee presented their able report—to this report we have already alluded. If any fears could have been entertained from the machinations of the Chancellor and John Lorimer Graham, Esq, this report certainly was calculated to dispel them.

We believed now that the affairs of the University were approaching a crisis and we hoped that it would prove a glorious and a redeeming crisis.

In the course of the month of May, the Professors were invited to a conference with the Committee on the Faculty of Science and Letters. This conference was of a cheering nature. We began to feel that the middle wall of partition between the Faculty and the Council was about to be broken down. The Chairman of this Committee, the venerable Dr. James Milnor, stated, among other things, that if there were any grievances under which in the apprehension of the Professors, the institution might be laboring, they were desired frankly to communicate the same to this Committee, by whom they would be laid before the Council.

From the whole aspect of the measures of the Council and from the sentiments expressed by many individual members, we could not but believe that a movement on our part, made judiciously, would be frankly and cordially met on their part. The University too, was in a state which forbade the Professors, as honest men, longer to remain silent. The debt was overwhelming. The very Library and Apparatus were under the hands of the Sheriff.—*Their own convictions respecting the Chancellor were full and*

unanimous that he did not possess the confidence of the community, and he had forfeited their own to a degree which rendered it impossible for them to contemplate a longer connection with him. Under these circumstances they firmly believed that an investigation into all the matters relating to the University in their connection with the Chancellor's conduct and character—an investigation thorough and impartial was imperatively called for. They did not contemplate becoming themselves the formal prosecutors of the Chancellor, nor from the sentiments expressed by many members of the Council did they deem it necessary. What they aimed at from the beginning was simply to lead on an investigation in which they themselves being the witnesses of what they related might be called in to make statements and produce facts, besides whatever statements and facts might legitimately and fairly be called in from other sources. While the Chancellor, on his part, should have full opportunity for explanation and counter statements and facts. They regarded the whole transaction as solemn and important and one to be conducted under the eye and in the open presence of justice and truth. As the mildest and most decorous way of bringing this about they decided after mature and calm deliberation to send in to the Committee on the Faculty of Science and Letters a paper expressive of their sentiments.

This Committee* consisted of the Rev. Dr. Milnor, the Rev. Dr. Cox, and Doctor Delafield. The paper was accordingly sent in and submitted to their discretion, and is as follows :

“The Committee of the Council on the Faculty of Science and Letters having at their late interview with the Faculty invited

* The following extract from the Statutes will shew the power of this Committee :

“It shall be the duty of this Committee to devise and execute in co-operation with the Faculty, plans for the enlargement and improvement of each particular department. This Committee shall report quarterly to the Council the condition of each department, and such other facts and circumstances as they may deem important to be communicated to the Council. It shall be the duty of this Committee to nominate suitable persons to fill any vacancies which may occur in any department of the Faculty.”

them to make a statement of any matters of importance to the interests of the University or any grievances affecting these interests.

We, the undersigned Professors, feel ourselves compelled to the painful avowal (an avowal which we make without any feelings of individual hostility, but from a deliberate and solemn conviction, that truth and the interests of the Institution no longer permit its concealment) that, in our opinion, the head of this Institution does not possess the confidence of the community. And also, we avow, that he has forfeited our own confidence, and that we fully believe, that while this is the case, no expedients to relieve the embarrassments of the University, to elevate its character or to augment its resources can be successful. The above communication we submit to the Committee, to be made use of at their discretion.

HENRY P. TAPPAN, *Prof. of Int. and Mor. Philosophy*, 1

ROBT. B. PATTON, *Prof. of Greek Lang. and Literature*,

J. PROUDFIT, *Prof. of Latin Lang. and Literature*,

LEWIS C. BECK, *Prof. of Chemistry*,

CHAS. W. HACKLEY, *Prof. of Mathematics*,

C. MASON, *Prof. of Ev'g's. of Rev'd. Relig. and Belles Letters*,

W. A. NORTON, *Act. Prof. of Nat. Philos'y. and Astronomy*,

L. D. GALE, *Prof. of Geology and Mineralogy*.

UNIVERSITY OF THE CITY OF NEW-YORK, May 30, 1838."

They presumed that this paper would come before the Council; but the time and circumstances of its presentation, they deemed it both respectful and judicious to leave to the judgement of the Committee. Before they had decided what disposition to make of it and while its existence was yet known only to themselves—the Chancellor in an interview with the Committee was led, from a remark dropped incidentally by a member of that body, to suspect that some communication had been made to them. He immediately insisted upon information. It was given, and the paper read to him. Its contents apparently produced a deep impression upon him. He held, within a few days after, several interviews with members of the Committee and members of the Faculty, in which he avowed that the paper placed him in a critical position, where a single step might ruin him. He offered to withdraw from all connection with the University, except a very general one, such as presiding at Commencements, if the Professors would withdraw the paper from the hands of the Committee,

To this the Professors could not consent as honest and consistent men—They had expressed their conviction that the Chancellor did not possess public confidence—They had avowed that he had forfeited their own—After this expression, it was impossible for them to yield to any arrangement by which he should continue to hold an important and dignified connection with the Institution, unless, by a fair investigation, the crooked should be made straight, the dark and doubtful made plain, and a dishonored reputation purged of its spots, so as to claim and hold the respect and confidence of the community. When he found that the Professors were firm, instead of calling for an investigation, as a man strong in the consciousness of his truth and integrity would be expected to do, he expressed a determination to resign outright. This determination he made known to the Chairman of the Committee, Dr. Milnor—to two members of the Council—to a member of the Faculty, and finally to a gentleman whom the President of the Council, Gen. James Tallmadge, had requested to call on him, and to urge upon him the importance of an immediate resignation. In the course of the conversation with this gentleman the Chancellor proposed going to Europe, and instead of a direct resignation, merely to place his office, on the occasion of his departure, at the disposal of the Council. The gentleman advised him, in opposition to this, to give in a plain and decided resignation, and he, (Dr. Mathews,) at the close of the conversation stated distinctly that his mind was made up to pursue the course advised. At the next meeting of the Council, however, he handed in the following paper :

(COPY.)

“ To the Council of the University of N. Y.,

It has long been a matter of apprehension with many among my friends, that my health might be injured, by the number and amount of my various public duties ; and it has been the earnest advice of my family physician, that I should be constantly on the watch for those indications which nature might present, to show that she felt herself overtasked. It is my duty to state to the Council, that of late my apprehensions on this subject have been somewhat awakened ; and after consulting with several medical advisers, I am brought to the conclusion that I owe it to myself, to my family, and to my prospects of future usefulness, to seek,

both a respite from my labors, and a severance, for a time, from the scenes and associations of labor by going abroad.

This determination and the reason which has led to it, have made the subject of my present relations to the University a matter of anxious consideration. It may be judged desirable that an officer should be at the head of the Institution who shall always be at hand to give counsel and direction. By referring to the Statutes it will be seen that the Chancellor is elected for the term of four years, and until a successor shall be appointed. It is now seven years since the Council did me the honor to confer the appointment on me : and under all the circumstances of the case I would respectfully suggest that the Council consider the office as in their hands with my concurrence in any measures respecting it which they may see fit to adopt.

The Council I trust will not consider me as relinquishing any of my interest in the Institution. It has been too dear to me from its origin, ever to fade away from my affections, or my sympathies. It will ever be my desire to do every thing in my power for its prosperity and its usefulness. It has already grown to a form and an aspect which places it among the most important literary institutions of our land. Its Faculties of Letters, Science, Arts, and Law, are formed, while the Faculty of Medicine is so nearly completed that the work may be considered as in a great measure done. Besides the contributions already received from individuals, it has received an appropriation from the State which, when properly seconded by farther liberality on the part of the public, will relieve it from any pressing pecuniary difficulties. I have never had a doubt that on a proper application the aid now required will be cheerfully afforded, and the permanent welfare of the Institution thus secured.

I would here wish to be understood as declining to receive from the University anything in the form of salary for time during which I am not actually employed in its service ; and not alluding farther to any of the details or other interests connected with this communication, I would simply add, that should the Council see fit to appoint a Committee to confer with me on such matters, I will esteem it a favor and be happy to meet with them.

With highest considerations,

I am, etc.,

J. M. MATHEWS.

UNIVERSITY OF NEW-YORK, June 14th, 1838."

John Lorimer Graham, Esq. immediately after the reading of the paper, moved that it be referred to a Committee, which was done. The Committee consisted of himself as Chairman, and *five other friends* of the Chancellor, and was appointed by the

President, Gen. Tallmadge, who was himself added to the number. The communication of the Faculty was then brought forward. The reading of it was objected to by several of Dr. Mathew's friends, but the objection being over-ruled it was read, and referred to the same Committee.

This Committee was appointed June 14th. The Chairman of the Committee stated in a meeting of Council the following week, that they were not yet ready to report, but in the mean time would lay before the Council the following correspondence :—

“ NEW-YORK, June 16, 1838.

DEAR SIR :—I have been instructed by the Committee to whom was referred your communication to the Council of the University, relative to your proposed visit to Europe, to enquire, whether your health and arrangements will allow of your prolonging your departure until after the approaching annual commencement. The Committee deem it of importance to the Institution that you should perform your accustomed services upon that occasion, and request me to express their hope, that you will be enabled to be present. I wish your reply to-day, as it will have an influence upon the action of the Committee, who meet on Tuesday morning.

With great respect,

I am very truly yours,

JOHN L. GRAHAM, Chairman.

REV. DR. MATHEWS, Chancellor of the University, New York.”

“ UNIVERSITY OF NEW-YORK, June 16, 1838.

DEAR SIR :—It being the opinion of my medical advisers, that I should embark on my voyage as soon as practicable, I had intended to take my passage in the packet of the first July next. The communication from your Committee, however, is decisive with me, as to the duty of postponing my departure until the approaching commencement shall have been held. Inasmuch as the “ Committee deem it of importance to the Institution that I should perform my accustomed services on that occasion,” I feel that a compliance with their wishes is required, alike by my respect for their judgment, my attachment to the interests of the University, and my gratitude to the Council for their uniform kindness and indulgence.

With great respect,

I am truly yours,

J. M. MATHEWS.”

J. LORIMER GRAHAM, Esq. Chairman, etc.

The following Resolution was also offered by Mr. Graham, and laid on the table, viz :—

"Resolved, That communications accusing an officer of this Council of official misconduct, or reflecting upon the manner in which he has performed his duties, shall be presented to the Council of the University only."

This resolution is remarkable as showing that Mr. Graham in certain connections could think of the propriety of bringing charges against the Chancellor before the whole Council.

This Committee brought in no report until the day after commencement, July 19th, when they reported resolutions in substance as follows :—

That the Chancellor be permitted to go to Europe, and that his salary be continued to him during his absence, and

That Gen. James Tallmadge, who had kindly offered to serve in that capacity, act as Chancellor during the absence of Dr. Matthews.

The paper of the Faculty was barely alluded to, and was represented as of too general a character to claim any notice.

The only conclusion that can possibly be deduced from the report, in connection with this fact is—that the Committee intended to smother the paper of the Faculty, and to remove the Chancellor from the possibility of an investigation by a leave of absence to travel in Europe. The resolutions of the Committee were laid on the table.

A few days previous to this, having heard of no action being taken upon our paper, and strongly suspecting a result like the one above developed, we had addressed to the Committee on our Faculty the following communication.

To the Committee of the Council of the University, on the Faculty of Science and Letters.

GENTLEMEN :—On the 4th of June last, we placed in the hands of your Chairman, by a Committee of the Faculty, a paper containing certain statements in reference to the Executive Head of this Institution. In taking this step, we conceived ourselves acting in strict compliance with the instructions of the Council, communicated to us by your Committee, at an interview which we had the honor to hold with you in the course of May last. We were then requested to communicate to you any plans which we might form from time to time for improving the system of instruction and discipline in the University, and to state any grievances which, in our opinion, might interfere with its usefulness. We

considered ourselves happy in possessing an organ of communication, so entirely satisfactory to us all, with the body under whose auspices we were laboring. We believed that it augured well for the future prosperity of the University, and resolved to lose no time in availing ourselves of the important opportunities which it afforded us of making the Council more intimately acquainted with the interior condition of the Institution.

We had, gentlemen, many plans to propose, of improvements in the University, each in our own departments. But we felt ourselves compelled to move first in obedience to your last solicitation. We therefore acquainted you with the existence of a grievance—the greatest and heaviest which can possibly rest on any Institution—a grievance which we knew, and had long known to be paralyzing the energies of the Institution, and drying up the sources of public bounty. We unanimously placed our hands to a statement that the Chancellor of this University had totally forfeited our confidence, and, in our opinion, did not possess the confidence of the community.

These, gentlemen, were grave and solemn charges. They touched, as we were fully aware, the moral character of the individual to whom they related—they impeached his standing in the community for truth and uprightness. They were charges which no innocent man could allow to stand for one hour, uninvestigated. And an investigation was what we naturally looked to as the consequence of these charges. We were fully aware that unless they could be substantiated by the most ample and unanswerable testimony, they would recoil, with overwhelming force upon ourselves, and convict us before the community, as base and cruel calumniators.

And so long as an investigation is suspended, it must remain in doubt whether such be not our real character. We have brought these charges against a man high in station, and most honorably connected in the community. If they are true, the interests of religion and education require that they should be promptly acted upon. If they are false, immediate banishment from society would not be too severe a punishment for the authors of the calumny. This, doubtful position, gentlemen, we are not willing to occupy. We have taken our stand from a sense of duty to ourselves; to the youth who have been placed in the bosom of this Institution to be nurtured, not only in science but in virtue; to the Council who have confided to us the interior management of the Institution, and to the public and the state whose bounty has endowed and fostered it. An investigation can alone decide whether we have assumed a necessary though painful responsibility from these high motives; or whether we have combined,

with a unanimity, hitherto unparalleled in the annals of falsehood and malignity, to ruin the character of an innocent man.

The relative position of the Chancellor and the Professors has now become matter of public notoriety. His positive assurances that on a given day, he would resign his office to the Council, induced us for a time to hope that this publicity with all its deplorable consequences, might be avoided. Had he taken this course, we had resolved to let the whole controversy sink into immediate and perpetual oblivion. But the course which he pursued then and subsequently, has convinced us that no such hope is to be entertained, and that an examination of testimony can alone bring the question between us to a decisive and final issue.

We therefore request you, gentlemen, to communicate to the honorable body which you represent, our earnest desire for an immediate investigation of these charges—an investigation conducted in the presence of the whole Council, to whom the public have confided the high responsibility of deciding the question, and to whom we confidently look for a wise and righteous decision.

HENRY P. TAPPAN,
ROBT. B. PATTON,
J. PROUDFIT,
C. W. HACKLEY,
LEWIS C. BECK,
WM. A. NORTON,
L. D. GALE.

UNIVERSITY OF THE CITY OF NEW-YORK, JULY 13th, 1838.

This paper was presented by Dr. Milnor, Chairman of the Committee on the Faculty, at the same meeting at which Mr. Graham reported his resolutions. The object of this paper evidently was to bring on without further delay the investigation we desired. We have already stated that it was not our intention, as it was not our office, to become the formal prosecutors of the Chancellor, but to present an occasion for an investigation to be instituted on the part of the Council. We very naturally and reasonably supposed that when eight Professors constituting the entire corps of instructors in the undergraduate course, came forward and expressed their entire want of confidence in the Head of the Institution, and their belief that he had lost the confidence of the community, it would in itself form a fact sufficiently grave and alarming to claim the serious attention of the Council, and to call for an investigation. We believe that the common sense of an unprejudi-

ced community, must instantaneously receive the same impression.

That our paper should have been referred to a Committee already appointed for a different object, and that too a Committee composed exclusively of the friends of the Chancellor, instead of being referred to a Committee expressly appointed to take charge of a matter of such grave import, and to settle the form and conditions of a full and impartial investigation, struck us at once as an event extraordinary and portentous—but what was our astonishment when we found week after week passing away, and no notice taken of our communication, except the threat by Mr. Thomas Suffern in the Council, that he would move for the dismissal of the Professors, and language of similar violence and abuse from other members of this Committee. Under these circumstances, we drew up our second paper, and in it gave the widest construction to the contents of the first. When the Committee reported resolutions granting the Chancellor leave of absence to Europe with his salary continued, and his character endorsed in the very face of the paper of the Faculty, without deigning to notice that paper, they seemed to have reached the climax of partiality to the Chancellor, and injustice to the Professors. Our second paper, one might have imagined, would come in here very opportunely, to give a more rational and just direction to the action. But the result has proved that these extraordinary developments had then only begun. *Our second paper was referred to the same Committee.* The instructions of the Council to the Committee, and their action under the same, will appear from the following paper:—

“SIR :—I am directed as Chairman of the Committee mentioned in the accompanying proceedings to communicate them to you ; and also the passage of the following Resolution by the Committee, with the request that you will at an early day furnish the Committee through me, with the charges which you have to prefer against the Chancellor of the University, under the communications referred to them.

“*Resolved*, That a copy of the Resolution referring the last communication of the Professors to the Committee, be communicated by the Chairman of this Committee to the Professors signing said communication, and that he request them to furnish to

him the charges which they have to make against the Chancellor, under their communications referred to the Committee.

I am very respectfully,

Your obedient servant,

JOHN LORIMER GRAHAM, Chairman.

New-York, July 30th, 1838.

UNIVERSITY OF THE CITY OF NEW-YORK, JULY 19, 1838.

"Mr. Graham, Chairman of the Committee to whom were referred a communication from the Chancellor, on the 14th June ult., and also a paper signed by Henry P. Tappan and others, Professors of the University, made a report in writing."

"Dr. Milnor, Chairman of the Committee on the Faculty of Science and Letters, announced that the said Committee had a further communication from seven Professors on the same subject. Whereupon,

"*On motion, Resolved*, That the Report of Mr. Graham be laid on the table, for the purpose of receiving the said communication from the Professors; which, being read, was found to be explanatory of their former communication, expressive of a desire to be heard by the Council relative to certain charges against the Chancellor, and signed by the same individuals who signed the former communication, excepting Professor Mason.

"*On motion, Resolved*, That the above named report and communications from the Professors, be referred to the said Committee, of which Mr. Graham is Chairman; and that said Committee investigate the charges made against the Chancellor by the Professors, with power to take proofs in writing, and report the facts to the Council for their decision, without comment or opinion by the Committee. Copies of the charges to be served upon the Chancellor ten days before the testimony is taken."

It will be evident to every one that by this action a direction was given to the whole affair contrary to what the Professors had a right to expect, and justice demanded. It is assumed that *they* are to become formal prosecutors of the Chancellor, and *they* are requested to furnish the charges which *they* have to prefer against the Chancellor. Now they had intended to call the attention of the Council to no charges, but what were expressed or contained by obvious implication in the two propositions. "In our opinion the Head of the Institution does not possess the confidence of the community"—and "we avow that he has forfeited our own confidence." In reference to these two propositions we had request-

ed an "*investigation to be conducted in the presence of the whole Council*," where, as before a dignified, impartial and dispassionate tribunal, we would present the facts and testimony on which these propositions were based. On the one hand believing that if we could prove that the Chancellor did not possess the confidence of the community, and could show ample grounds for his having forfeited our own confidence, we should be sustained by the Council, in the conclusion that his longer connection with the Institution would defeat every expedient—"to relieve its embarrassments, to elevate its character or to augment its resources." While on the other hand, if we failed to make the case good, we would lay ourselves open to the most serious consequences, for a deliberate attempt to calumniate a respectable man. On assuming the responsibility of this alternative, we claimed of the Council as a bench of Judges, who could not rightfully depute, and who ought not to desire to depute their powers to a Committee, to investigate collectively and for themselves the charges—to hear with their own ears the proofs and facts. If we had been wrong in our construction of their official capacity, they might have yielded to a request which showed no disposition other than to bring the case under the clearest "Sun," and in the most "open field," at least they might have forbore to abandon us to the mercy and to yield us to the discretion of a Committee, some of whose members had evidently prejudged the case by their open and violent denunciations of the Professors. A Committee too whose Chairman was John Lorimer Graham, and whose most commanding name was that of Gen. James Tallmadge.

We will suppose that we had yielded to the citation of the Committee and appeared before them as the formal prosecutors of the Chancellor; independently of our strong and well grounded distrust as to the impartiality of their investigation and the faithfulness of their report, we had reason to fear that after engaging in the investigation they might suddenly have cut the matter short and have represented to the Council that upon an examination of the "Revised Statutes" it appeared that the whole business was unauthorised and illegal—the Professors having no right to prefer charges and therefore nothing more remaining for them

"except again to refer to their former report," they might have requested to be "discharged from the further consideration of the several subjects before them."

When the note of Mr. Graham was addressed to the Professors only a part of them were in town—these addressed to him the following joint reply :—

"SIR,—We have received your communication as Chairman of a Committee of the Council, and having ascertained that all the Professors with the exception of the undersigned are absent from town, we have taken measures to procure their attendance at as early a day as practicable.

R. B. PATTON,
J. PROUDFIT."

Disappointed thus in their wish to have an investigation instituted on the part of the Council and conducted before the whole body; The Professors as soon as assembled in town took the whole matter into deliberation; and becoming aware by information given by one of their number that legal and technical difficulties might meet them in appearing before a Committee of the Council in the character of prosecutors, and having also serious objections to appearing before the Committee at all, as above intimated, they applied to legal counsel of acknowledged standing in this city, and one of the Professors having occasion to go to Philadelphia about this time consulted also an eminent lawyer of that city—the gentlemen consulted concurred in the advice not to appear before the Committee but to procure some member of the Council to present the charges and to have the whole affair conducted in conformity with the provisions of the Revised Statutes on this subject. We accordingly decided to apply to J. Prescott Hall, Esq. This gentleman had not attended recent meetings of the Council. What his sentiments were towards the Chancellor we knew not, but we presumed that he was uncommitted. A committee was sent to wait on him. On a statement of the case—he replied that although he was a friend of the Chancellor, yet as the matter was of grave importance and ought to be fully investigated, he would undertake to present the charges at the next meeting of the Council, Aug. 30th.—reserving to himself his right as judge—but assuring us of an "open field and a clear sun." The following note was now sent to Mr. Graham—

"SIR :—In reply to your communication of the 30th ult., we beg to state, that having laid the same before our legal counsel, we are advised that formal charges against an officer of a literary institution can only, by law, be presented by a member of the Council. As Prescott Hall, Esq., has consented as a member of the Council to present these charges, we have concluded to await the progress of the affair in this form as one which is liable to no legal or technical objections.

Permit us to add that our last paper neither preferred nor gave notice of any *new* charges, which seems to be implied by some expressions in your communication, but simply requested that the Council would ascertain and determine by an investigation the truth and validity of those contained in our first, whether they are denominated *charges* or *statements* merely we have deemed of no importance.

Signed in behalf of the Professors,

J. PROUDFIT,
R. B. PATTON,
H. P. TAPPAN.

New-York, Aug. 8th 1838."

We then prepared charges with specifications arranged under two of the heads of complaint against an officer of a literary institution mentioned in the "Revised Statutes" viz. Misbehaviour in Office, and Immoral Conduct.

The specifications of his misbehaviour in office related to his conduct as the financier and general agent of the Institution,—as the organ of communication between the Faculty and the Council,—and as the presiding and executive officer of the Institution. The specification of immoral conduct related to his duplicity, prevarications and false statements in his intercourse with the Faculty, and in his transactions on account of the University. One of our specifications clearly implied also disqualification for the office, arising from his general reputation in the community.

It is unnecessary for us here to introduce the details of the testimony by which these charges were proposed to be supported, but as it has been remarked in the published documents of the Chancellor and his friends that the Professors have not manifested "a sincere desire for the discovery of truth;" if any thing is necessary beyond the clear statements of this paper, in order to expose the utter falsity of this remark, the Professors do here distinctly state, that they hold themselves ready to give their own

testimony in addition to other testimony which can be produced in support of these charges before any impartial tribunal in the land.

It is a remarkable fact which we cannot avoid adverting to here, that Mr. Hall who was absent at the time when he promised to present the charges, without any intimation before or explanation since, was present at subsequent meetings when measures of violence were taken against the Professors and voted with the Chancellor's friends for the expulsion of the Professors without a trial or accusation. Nor can we repress our indignation that after repeated attempts to bring on a fair and open investigation before the whole Council—and after finally putting our charges into the hands of the President of the Council and their reading had been called for, and the appointment of a prosecutor moved by a member of the Council, (but called and moved in vain!) it should be gravely stated over the signature of Wm. Curtis Noyes, a partner of Mr. Graham—a new man in the City—a new man in the Council, and a new Chairman of the Committee.* “Their charges would at any time have been received by your Committee even after they had once declined to present them.”

July 26. The work so long concocting by Dr. Mathews and John Lorimer Graham, Esq. appeared in the form of the resolutions of Reorganization. At this meeting the Vice President of the Council, the Rev. Dr. Milnor, after a lesson on propriety and duty had been read to him by John Lorimer Graham, Esq. resigned his seat in the Council. The following correspondence afterwards passed between him and the Professors :

“UNIVERSITY OF THE CITY OF NEW-YORK, Sept. 11, 1838.

REV. AND DEAR SIR :—Considerable surprise having been expressed, throughout the community, at your resignation, in the then existing circumstances, of the office of Councillor of the University of the City of New-York, the duties of which had

* Our first knowledge of Mr. Noyes as a member of the Council and as Chairman of the Committee, indeed, our knowledge of him, in any sense, was on Sept. 27th, when he brought in the report which it seems Mr. Graham the senior partner declined to bring in.

been discharged by you, from the earliest period in the history of the Institution, with such distinguished zeal, dignity, integrity, and intelligence—we, in common with other friends of the Institution, beg leave to request of you a statement of the causes which led to a separation from the Council,—deplored, we believe, by every friend of Science and religion in our community—in order that we may present the same to an impartial and unprejudiced public, who are longing to see, from your own pen, a true statement of facts.

We would only add, that we have always felt that our cause derived the strongest support from your eloquent and fearless advocacy, and from the universal influence of your unblemished name.

We are, Sir, with sentiments of
the highest respect and affection,
yours, &c.

On behalf of the Professors,

ROBERT B. PATTON,
HENRY P. TAPPAN,
JOHN PROUDFIT, } Committee.

REV. JAMES MILNOR, D. D.

MESSRS. HENRY P. TAPPAN, ROBERT B. PATTON, and JOHN PROUDFIT, Committee of Professors in the University of New-York:

GENTLEMEN:—On my return from Philadelphia last evening, I find your obliging note of the 11th instant, requesting of me a statement of the causes which led to my separation from the Council of the University, in order that you may present the same to the public.

I regret that it will not comport either with the advice of my friends, or my own feelings, to furnish the statement you desire.

The public can be but little interested in my relinquishment of an office, in which, with a great sacrifice of time and feeling, I was persuaded, under existing circumstances, I could be no longer useful.

The same desire to avoid controversy, and maintain my own peace of mind, that led me to withdraw from the unpleasant agitations by which the meetings of the Council, for several weeks before my resignation, were disturbed, have determined me to take no part in the public discussions to which the measures of the Chancellor and his friends have given rise.

Believing that the Institution, under proper auspices, is eminently calculated to promote the cause of Science and Letters in our great and increasing metropolis, I cannot but hope that a gracious Providence will so overrule events, as that it may yet

enjoy all the prosperity which injudicious measures have for a time destroyed.

But I entirely concur with you in the persuasion, that to regain what it has lost, and to obtain that support, without which the success of its operations cannot be anticipated, it must have at its head a man who possesses the confidence of the community to a far greater extent than the gentleman who now controls its concerns.

With a high estimate of the learning and talents with which you have assiduously devoted yourselves to your duties in the University since your connexion with it, and with great personal regard, I remain, gentlemen,

Your obedient servant

and assured friend,

JAMES MILNOR.

Beekman Street, Sept. 19, 1838."

It was at a meeting of the Council, held Aug. 30th that our charges were to have been presented by Mr. Hall, and were actually sent in to the President of the Council.* It was at this meeting that the charges instead of being laid before the Council by the President—instead of being read when called for—instead of being submitted to judicial action when the appointment of a prosecutor was moved—were simply retained by the President. It was at this meeting that the Resolutions re-organising the Professorships were brought forward and passed, twelve only voting for them, including the President, the Chancellor, and John Lorimer Graham Esq, who is not legally a member of the Council. [See Appendix E.] These resolutions were understood by those passing them to effect the removal of seven Professors.—

* The charges were sent in to Gen. Tallmadge Aug. 30, at a meeting of Council, accompanied with the following note :

"SIR :—The enclosed Documents were to have been presented to the Council this afternoon by J. Prescott Hall, Esq. Owing to his unexpected absence from town, we beg leave to place them in your hands, and respectfully request you to lay them before the Council.

We are &c.

H. P. TAPPAN, } Committee
R. B. PATTON, } of the
J. PROUDFIT, } Professors.

Some days afterwards the following note was addressed to the Professors :

UNIVERSITY OF THE CITY OF NEW-YORK, Sept 6th 1838.

SIR :—You are requested to meet with a Committee of the Council on Saturday next, the 8th inst., at 3 o'clock P. M., in the Chancellor's room.

Respectfully yours,
ARCHIBALD MACLAY, JR.,
Assistant Secretary.

The following answer was returned':

SIR :—In reply to your note of Sept. 6th, we beg leave to state, that in all previous instances, the proposal of an interview between a Committee of the Council and the Faculty, has been addressed to us by the Chairman of the Committee, and has been accompanied by some notice of the objects for which the Committee was appointed and of the business to be transacted at the conference. A mere "request" from the Secretary of the Council to "meet with a Committee of the Council" is so wide a departure from the usage, both of the Council and the Faculty, that in the absence of our associates, we do not feel at liberty to comply with it, as a course so unusual and informal might not receive their sanction, and might thus be followed by serious inconveniences.

We are, &c.

J. PROUDFIT,
H. P. TAPPAN,
R. B. PATTON.

New-York, Sept. 8, 1838."

Not having received any communication from Gen. Tallmadge in reply to the above, the following note was addressed to him Sept. 10th.

Gen. Tallmadge—

SIR :—We had the honor, on the 30th August, to enclose to you, as President of the Council of the University, certain documents to be laid before that body. As you have declined to present them on the ground that, in your opinion, this step on the part of the Professors was informal, we respectfully request you to return the said papers to us, by the bearer of this note.

We are, &c.

In behalf the Professors,

J. PROUDFIT,
R. B. PATTON,

New-York, Sept. 10, 1838.

Official notice of the resolutions designed to effect a re-organization was sent to each of the Professors, Sept. 12th, as follows :

NEW-YORK, Sept. 9th, 1838.

The Committee appointed by the Council of the University of the City of New York, having been convened at 5 o'clock to-day, for the purpose of conferring with you upon the subject referred to them, and as you did not attend agreeable to notice, I have been requested by the Committee to communicate to you the following, as passed by the Council at their meeting last week.

Resolved, That until the further order of the Council, the Faculty of Letters and Science for instruction in undergraduate studies, shall consist of the following Professors, viz :—

Sept. 19th.—The charges were returned, accompanied with the following note :—

NEW-YORK, Sept. 17, 1838.

To Professors Proudfit and Tappan,

GENTLEMEN :—Your note dated on the 10th, desiring me to return by the bearer, your communication sent to be laid before the Council of the University, on the 30th August, was handed to me this day, (17th Sept.) while at dinner at the Astor House. I could not *then* see the bearer of your letter. But now hasten to return your documents to you, herewith inclosed. The *recital* in your note of my reason for declining to lay your documents before the Council, is an entire misrepresentation of my reasons. For correction, if you deem my reason material on a mere request to return the papers, I refer you to my letter of the 31st ult., sent through the Post Office to you.

When I left town in the morning boat, after the meeting of the Council, on the 30th ult., I left the papers with Mr. J. L. Graham, a member of the Council, who I believe had a copy taken of them.

I am Gentlemen,

Yours, &c. &c.

JAMES TALLMADGE,

President of the Council of the University.

Mr. J. L. Graham stated in the presence of Professors Tappan, Norton, and Proudfit, (September 19th,) that "it was entirely at the request of General Tallmadge, that he had had copies of the papers taken." This statement was made in reply to a remark from Professor Proudfit, that it was a very extraordinary proceeding for the President to allow a copy of papers to be taken which he had declined to present to the Council, and which had *never* been placed in his hands as "private papers."

One Professor of Languages.

One Professor of Mathematics and Natural Philosophy.

One Professor of Intellectual and Moral Philosophy and Logic, who shall also give instruction in History.

One Professor of the Evidences of Revealed Religion and Belles Lettres.

One Professor of Chemistry, Geology, Mineralogy and Botany.

One Assistant Professor of Languages, who shall also aid in the studies of the Freshman year, as occasion may require.

Resolved, That all previous enactments or resolutions of the Council, which may be inconsistent with the above arrangement, be, and hereby are rescinded."

I would further state, the same Committee were appointed to receive applications of gentlemen to fill the office of Professors and Assistant Professors, in the University, under the above arrangement, and to report to the Board. The Committee will report to the Council at an early day.

W. W. CHESTER, Secretary of the Committee.

This communication plainly implies blame to the Professors for not attending a meeting of "the Committee convened to-day, (Sept. 9th, Sunday!) for the purpose of conferring" with the Professors, "upon the subject referred to them" (the Committee.) It is of importance to call attention to the fact, that we had received no notice to attend such meeting, except the note of Secretary Maclay above given. This Committee is styled "*a* Committee," in the note of Mr. Maclay, and "*the* Committee" in their own communication to the Professors; but while in the note of Mr. Maclay no intimation whatever is given respecting the purpose for which this Committee had been appointed—in their own communication an allusion is made to a "subject referred to them" without any explanation of the subject itself.

On September 12th, was also received the following letter,*

* Gen. Tallmadge after the appearance of the "Letter to the Councillors," at a meeting of Council, entered this letter on file, with the gratuitous statement that we had it in our possession at the time we wrote the "Letter to the Councillors." If such were the fact, we cannot perceive that it had a very important bearing;

dated, inside, New-York, Aug. 31st, postmarked Poughkeepsie, September 3rd :—

AUGUST 31st, 1838.

TO PROFESSORS PATTON, TAPPAN, PROUDFIT, &c. &c.

GENTLEMEN :—I have received your letter desiring me to present to the Council of the University, your communication, &c.

From the known tendency of Professors to combine and beget feuds with their Principals, the Legislature have long since wisely enacted, that Professors cannot become accusers against their Principals. I am entirely unwilling to adopt your communication as my own act, and thus become an accuser. I cannot, therefore, present it to the Council, either as from you or myself. I am the more willing to adopt this conclusion, as I think, from the matter and form of your communication, it is more calculated to injure the character of the Professors, than the individual they seem so desirous to accuse.

Respectfully yours, &c.

JAMES TALLMADGE.

Upon this letter of Gen. Tallmadge we remark—that his hit at Professors is without point—they are a class of men with whom he has been but little associated. Their “known tendency &c.” is a weak assumption of his own, neither true in point of fact, nor appearing from the enactment, to have crossed the mind of the Legislature. The provision of the law relates to *all* officers of Literary Institutions, and prevents “Principals” from preferring charges against Professors, as well as Professors from preferring charges against their “Principals ;”

That he was not requested nor expected “to adopt the communication as his own act,” but merely to lay it before the Council. It is, indeed, a new predicament of a Chairman of an organised body, if he cannot lay communications before the body over which he presides, when requested to do so, without adopting them as his own acts ! At this very meeting too, the President

but it was not the fact. “The Letter to the Councillors” was printed Sept. 8, four days before the letter of Gen. Tallmadge was received. We sent a note to the Council, by the hands of Dr. Peters, the Secretary, correcting the statement of the President, but when Dr. Peters presented it in Council, the President would not allow it to be read.

having stated that he had received papers from the Professors containing certain statements against the Chancellor, the following Resolution was offered, viz: "*Resolved*, That the President be requested to present said papers to the Council"—which was rejected! How merely honorable—how merely just, it would have been for the President to have laid the papers before the Council—for the Council to have ordered their Secretary to read them—for a day then to have been appointed for the calm and impartial investigation of the whole affair; and, if, for the orderly conduct of the same, a prosecutor was found necessary, to have elected one! No objection as to form of law could have existence in such a procedure—besides, those who clamour that the Professors did not appear before the Committee, have no right to urge any objection as to form of law, inasmuch as "the Legislature have, long since, wisely enacted that Professors cannot become accusers against their Principals," before Committees as well as before Councils.

The papers were condemned to silence, and the twelve went on to do their work. They passed their Resolutions of reorganization—more appropriately of *disorganization*.

Need we ask, what led on these gentlemen? No fault in the Professors is alledged. In the whole of this controversy, there has appeared but one charge against them, and that, the futile charge of rebellion and contumacy, because they stood up against violence and despotism in defence of their right, and their good name, and for even handed justice. Was retrenchment the motive? The very face of the proceedings contradicts this. The retrenchment is trifling—it does not reach the pressure. But more than all, the violence of the proceedings and the violence of the language contradicts this. No delicacy was observed.—It was done—and twelve days afterwards the Professors were insulted with the information, that "a Committee had been appointed, and had already met to receive applications of gentlemen to fill the offices of Professors and Assistant Professors under the new arrangement."

No—it was not retrenchment; it was retaliation—retaliation, urged on by Dr. Mathews, in the attempt, by force instead of calm investigation, to sustain his character. [See Appendix F.]

From the moment we declined to appear before the Committee and attempted again to bring the charges before the Council, there commenced the proceedings we have described. It was found that the Chancellor could not be silently shipped off to Europe;—that we would not allow our papers to be smothered in the long embraces of a packed Committee—nor allow ourselves to be haled before them in the obscurity of a Committee chamber—there to be mocked at discretion, or to be turned adrift under the authority of the “Revised Statutes”—instead of coming before the whole Bench of Judges.—We preferred the Court of the Areopagus to the closet of Dionysius.—*Management* had failed, and therefore by one bold and desperate blow they determined to silence these noisy and pertinacious accusers. In one short hour the charges were disposed of—the Professors disposed of—and the truth and integrity of the Chancellor established !—

On the 8th of September the printed letter of the Professors was addressed to the members of the Council.—A few days afterwards we published our card intimating our intention to go on at the opening of the term with the course of instruction as usual. These acts, although in defence of right—in exposition of truth—and for the purpose of satisfying the students and encouraging them to remain and although sanctioned also by high legal authority, were construed into acts of rebellion against the government of the University.

At a meeting of Council September 18th, the following preamble and resolution were adopted—fifteen voting in the affirmative.

“Whereas doubts are entertained by some persons as to the late acts of the Council, re-organising the Faculty of Science and Letters, (on the relations of H. P. Tappan, R. B. Patton, J. Proudfit, C. W. Hackley, W. A. Norton, L. C. Beck and L. D. Gale, to the University;) and whereas in view of the late publications by the above named Gentlemen, in reference to the Council and University, manifesting open disregard to the authority and proceedings of this Council, it has become highly desirable that the sentiments of the Council should be distinctly expressed on the subject—therefore

“*Resolved*, That Messrs H. P. Tappan, R. B. Patton, J. Proudfit, C. W. Hackley, W. A. Norton, L. C. Beck and L. D. Gale, be and hereby are declared to be no longer professors in this University.”

A formidable difficulty now presents itself—the old Professors are indeed disposed of; but no officers remain, save the Chancellor and the Rev. Cyrus Mason, who alone had deserted the ground originally taken by himself in common with the other Professors. Nominations had already been made plentifully, but elections there were none, and the Professorships of a University went a begging. The next stated meeting would occur on Thursday, Sept. 27th, at 5 P. M. On the same day, at 10 A. M., by the Chancellor's advertisement, candidates were to be examined for admission, in the small chapel. The examination had to take place before the election of Professors. Truly this is an age fruitful in expedients! The difficulty was avoided by the appointment of an Examining Committee composed of Gen. Tallmadge, W. W. Chester, Thomas Suffern, John Lorimer Graham and Obadiah Holmes, Esq's.—who were, it is to be supposed, either themselves to examine in the Latin and Greek Classics or to see that this work, if committed to others, was done learnedly and critically.

True to the advertisement of the Chancellor, on the day, at the hour, and in the place appointed for the examination of Candidates, the Professors made their appearance. Why did not the Chancellor take his place? Why did not the Rev. Cyrus Mason take his place? Why did not the Examining Committee, fill the small Chapel with their presence? They had all, without the slightest notice of any change in the arrangements, retired to a small private apartment of the Chancellor, and there proceeded to examine such candidates for admission as could be intercepted on their way to the place appointed.

Perceiving the determination of the Professors to appear on the ground, the Council appointed a Committee to demand their keys. On the next morning appeared the advertisement of the Chancellor, postponing the examination; and on the afternoon of the same day took place the ceremony of demanding the keys. Thomas Suffern, and W. W. Chester, Esqrs., were the Committee to whom this respectable office was entrusted. Thomas Suffern was now fitly chosen to act as the executioner of the vengeance he had threatened months before, by locking the doors of an Institution of learning against its Professors.

The Chancellor having collected all his forces, the seats of the Professors were declared, for the third time, to be vacated. The following note, some days afterwards, was received by each of the Professors :

“UNIVERSITY OF NEW-YORK, Sept. 29th, 1838.

TO PROFESSOR _____

At a meeting of the Council of the University of the City of New-York duly notified on the subject, a “Resolution was adopted by an affirmative vote of 19, declaring Professor _____ no longer a Professor in this Institution.” The Secretary was directed to transmit a copy of the same.

Respectfully yours,

A. MACLAY, Assistant Secretary.”

Upon these successive votes, we remark :

First.—The Council by their second vote, Sept. 18, acknowledged the illegality of their first vote, Aug. 30th, and of course justified the construction which the Professors put upon that vote, and also the publication of the card intimating their intention to go on with the course of Instruction as usual at the opening of the term, and as, retaining their offices, it was their duty to do.

Secondly.—The Council by their third vote, Sept. 29th, acknowledge the illegality of their second vote, Sept. 18th, and of course, justified the construction put upon that vote by the Professors, and their consequent appearance at the University, Sept. 27th, to resume their duties.

Thirdly.—As the Professors, (the Council themselves being Judges,) were not legally removed by the vote of Sept. 18th—the Council by taking away their keys and thus preventing them from discharging their duty as Professors at the University, perpetrated a violence which nothing can justify, and dishonored themselves and the Institution of which they are the Trustees.

Fourthly.—If, however, the subsequent votes should be represented as designed to interpret the preceding votes, the proceedings are surrounded with difficulties equally great. On the one hand, the act of interpreting a vote is an acknowledgment of obscurity, doubtfulness and imperfection, and justifies the subsequent acts on the part of the Faculty. On the other hand, if the votes were in themselves illegal an interpretation by increased majori

ties cannot render them legal. And on this ground alone, independently of other questions that must be raised, the last vote of Sept. 29th, although a vote of nineteen members, has not dismissed the seven Professors.

Fifthly.—The last vote of Sept. 29th, must be considered void also, on the ground that the statute of the University which orders that Professors “shall be removed at a meeting to be appointed for this express purpose, of which notice shall be given,” was not complied with.

Sixthly.—The first act as intending to remove seven Professors, being so interpreted by the second act, was plainly and unquestionably illegal. (See Appendix G.)

By this act as an illegal act, and directly assailing the offices of seven men, a wrong was perpetrated. For this wrong the Professors had a claim for justice, and as the wrong has not been repaired, must still have a claim for justice against the Council. Now the last act of the Council from its necessary and acknowledged relation to the first, must be illegal and void. In the *first place*, the Council could not, in any justice, dismiss these gentlemen, when they already owed them redress for a wrong inflicted. In the *second place*, the third was but a following up of the first act, a mere affirmation, and not a new and independent procedure, and therefore a mere renewal, under more aggravating circumstances, of the wrongful act, and partaking not only of its malignity, but also of its weakness and invalidity. The whole affair is a tissue of imbecile passion and folly.

But how was this majority obtained? The votes of many honorable men were not there. Sept. 10th, the following protest was entered upon the minutes in reference to the vote of Aug. 30th.

Whereas, at a meeting of the Council of the University of the city of New-York, held on the 30th of August, 1838, a resolution was passed by the votes of one third of the Council, as follows: viz:—

“*Resolved*, That until the farther order of this Council, the Faculty of Science and Letters for instruction in the undergraduate studies shall consist of the following professorships, viz:—

One Professor of Languages.

One Professor of Mathematics and Natural Philosophy.

One Professor of Intellectual and Moral Philosophy and Logic, who shall also instruct in History.

One Professor of the Evidences of Revealed Religion, and Belles Lettres.

One Professor of Chemistry, Geology, Mineralogy and Botany.

One Assistant Professor of Languages, who shall also aid in the other studies of the freshman year, as occasion may require :"

And, whereas, it is supposed that such resolution will have the effect to displace seven of the Professors of the existing Faculty if the said resolution shall be acted upon and submitted to in practice.

Now in view of the nature and object of the said resolution, and of the circumstances under which it was passed, ~~we~~ the undersigned, members of the Council of the said University, do hereby protest, and request that our protest may be entered on the records of the University, against the said resolution and every part thereof, as contrary to the provisions of the statutes of the State of New-York in regard to such matters made and provided, [Sec. 1st Revised Statutes, page 461;]—as contrary to the statutes of the University—[chap. vii. §1 ;]—as in violation of the liberal principles on which the Institution was originally organized, as arbitrary and oppressive toward the Professors, inasmuch as it assails and aims at destroying their rights and reputation, without any charges against them, and without giving them an opportunity to be heard ;—as calculated to destroy all confidence in the government of the Institution, and in the tenure of the professorships, which are thus subject to the will of a minority of the Council ; and to introduce into the courses of instruction a derangement and confusion which, especially on the eve of a new year, may be fatal to the very existence of the Institution.

New-York, Sept. 10th, 1838.

WM. W. WOOLSEY,
CORNELIUS BAKER,
EDWARD DELAFIELD,
ROBERT KELLY,
W. B. CROSBY,
B. L. WOOLLEY,
ABSALOM PETERS,
SAMUEL H. COX,
R. T. HAINES.

At the meeting Sept. 18th, when the second vote was taken, the majority had fifteen, the minority eleven names.

At the meeting Sept. 29th, when the third vote was taken, the places of Dr. Milnor, Rev. Mr. Cone,* Hon. Walter Bowne, and Hon. Stephen Van Rensselaer had been supplied,† and supplied by persons subservient to the Chancellor; some of them comparatively strangers in the City, and some young men who only a few years before had been students in the University, and one of them recently a student in Gen. Tallmadge's office. The Hon. Stephen Van Rensselaer was written to, first by the Chancellor requesting his resignation, and afterwards by Gen. Tallmadge. The gentleman who stood first on the list of donors to the University, whose high position in society, whose virtues and venerable age, rendered his name invaluable to the Institution, was thus disgusted into a resignation of his seat in the Council, by the

* Mr. Cone, we have ascertained, never resigned his seat in the Council. He withdrew, at a meeting a short time previous, remarking, that the scholarship on which he had supposed himself entitled to his seat appeared to be merely nominal, and he could not, under such circumstances, consent to act as a member of the Council. He afterwards, however, found that he was entitled to a seat on the ground of another subscription made to his account. But when he was on the point, soon after, of attending a meeting of the Council, he was informed that his place had been supplied by Wm. Curtis Noyes, Esq. Mr. Cone had been, from the beginning, a member of the Council and a steadfast friend of the Institution. The indelicate haste with which Mr. Noyes was thrust into his place, allowed no opportunity for examining into the reasons of Mr. Cone's scruples, or for enquiry after his ultimate decision.

† Rev. Dr. Milnor resigned, and his place supplied by Samuel S. Newland, Esq.

Hon. Stephen Van Rensselaer resigned, and his place supplied by Thomas W. Tucker, Esq.

Hon. Walter Bowne resigned, and his place supplied by Wm. McMurray, Esq.

Rev. Spencer H. Cone resigned, and his place supplied by Wm. Curtis Noyes, Esq.

Rev. Archibald Maclay resigned, and his place supplied by Wm. B. Maclay, Esq.

We understand that Stephen Whitney and James Ruthven, Esqrs. have recently sent in their resignations.

importunity of Dr. Mathews and Gen. Tallmadge, and his place supplied to meet "the exigency." The resignation of the Hon. Walter Bowne, we infer from Gen. Tallmadge's statement to the public, dated Oct. 1st., was obtained in the same way, and filled to the same end. This management, together with the false and abusive cry that the Professors were resisting the government of the Institution, enabled the Chancellor and his party to make up the number *nineteen*. If there are any other reasons to be assigned for this result, we will leave an enlightened and impartial community to judge whether they can be found in a wise and elevated appreciation of the interests of Literature—in truth, honor, and justice.

It ought, perhaps, also to be remarked, that of those who sustained the Chancellor two were near relatives, and three were members of his congregation, whose, partiality, ought, of course, to be viewed with due allowance.

In looking over this statement, two facts come prominently up to view. *First*.—Eight Professors, constituting the entire corps of Instructors in the undergraduate course, found themselves impelled, by reasons, in their judgement, sufficient, to make a representation to the Council of their entire want of confidence in the Head of the Institution, and their belief that he had not the confidence of the community; holding themselves ready at the same time to lay before the whole Council, facts and testimony to justify their own sentiments in relation to the Chancellor—and to make good their judgment of his standing in the community:—and moreover, ~~seven~~ of these Professors, when an investigation could not be obtained upon the presentation of their first paper, did actually go forward and embody their opinions and judgements respecting the Chancellor in the form of charges containing many specifications and laying open sources of proof—and engaged a member of the Council to present the same to that body—and when he failed to do so, sent them to the President of the Council with the request that he would lay them before that body. The reading of these charges was called for—a motion was made that a prosecutor be appointed—and finally, the charges were in possession of the President of the Council twenty days.

Secondly.—The Council did not investigate the charges—but instead thereof and at the very meeting at which the charges were presented passed resolutions which were intended to effect the removal of the seven Professors and only them, by a vote of twelve members—and afterwards passed another resolution declaring them by name to be removed by a vote of fifteen members, And afterwards passed yet another resolution declaring them by name to be removed by a vote of nineteen members, several of whom had recently been elected and were acknowledged to have been elected for the express purpose of obtaining this majority.

By these acts both the accusers and the charges were removed from the Court of the Council.

The Council composed the competent tribunal for taking cognizance of the whole matter. They have assumed the responsibility of passing it by ; and of ridding themselves of the necessity of instituting a trial, by an act of unexampled injustice. Seven men, simply because they claimed to be heard in an important investigation, were suddenly deprived of employment, and that too at the opening of the Collegiate year when it is impossible to obtain new employment, not only without the slightest compensation for the derangement in their affairs ; but in the case of a majority of the Professors without the payment, up to this date, October 29th, of any part of their heavy arrears for former services.*

What they have done they seem in no disposition to recall. But unless they do recall what they have done and can annihilate all its influence and consequents they will be unable to repair the breach they have made upon the principles of justice and the rights and interests of learning. No trial of the Chancellor which they may now institute, can inspire the confidence of an upright decision. They have merged their character as judges into that of partizans and of men standing for judgment before an impartial community, for their own acts, seeking and making defences. They have

* These arrears, in some cases, extend back to February last :—And let it be remembered, *they are due for tuition, the fees for which were paid in advance, to the University, more than a year ago, viz. Oct. 1st. 1837.*

driven away from their number, aged, wise and dignified men, and have filled their places with the inexperienced and incompetent. They have substituted rashness and passion for deliberation and thought—they have substituted force for the decisions of justice.—They are no longer what they once were, a body of wise Councillors presiding with calmness and dignity, with enlightened and liberal purpose over the affairs of a promising institution. Have they not rather taken the appearance of men wielding powers whose force and aim they do not comprehend—and in their blind zeal crushing to the earth the interests which they loudly profess to patronize and defend.

This question is not merely a question relating to particular persons, and to a particular institution,—principles of perpetual and universal interest and importance are comprehended in it.

Literary Institutions are to be viewed in several relations. In relation to the law of the land under which they are incorporated, and come into the possession of rights and immunities. In relation to the Trustees who are the legal holders of the property, and to whom is committed the power, and upon whom is imposed the duty of organizing the Institution and bringing it into operation, and presiding over its interests, according to the provisions and intent of the charter. In relation to the Professors and Teachers upon whom come directly the discipline and instruction, and the weighty responsibility of the literary character and influence of these Institutions. And finally, in relation to the community at large, who as citizens, as literary men, as religious men, as parents and guardians, and as students, have various and momentous interests at stake. Now all these relations have their several expectations, claims and rights, alike irrefragable and sacred. But between these there is no collision. They are all harmonious, and co-operate to one great end, the enlightening and discipline of the human mind in truth and virtue.

Of all these relations by the common consent of men in all times, none is more sacred, honorable or important, than that of Professor and Teacher.* Their qualifications and virtues can

*Quod munus reipublicæ afferre majus meliusve possumus, q uam si docemus atque erudimus juventutem? Cic. de Div.

alone carry out the design of these Institutions, in instructing youth and in forming character. The aim of the law is to provide facilities for appointing able Instructors, and to give effect and permanency to their appointment. Trustees fulfil a most important part of their duty, when together with the proper *matériel* they have secured Teachers of literary character and high moral worth. And the community are then satisfied, and then alone when this is done.

In adverting to these facts under existing circumstances, no charge of egotism can be incurred. Besides we are standing up for a universal interest.

It is evident from the relations in which they are placed, and from the nature of the duties they are called to discharge, that Professors and Teachers require a condition free from irritating causes of disquietude and anxiety. Peace, permanency, confidence and enlightened and magnanimous patronage, are essential to the progress of learning and the arts, and to the education of youth in science and virtue.

Whether through ignorance or by intention, the President of the Council and his coadjutors have come with insult, sacrilege and violence, where men of all nations and ages are used to come with veneration, love and honoring expressions. The venerable forms of old Science and Philosophy, have trembled under their grasp, and the gentle muses are scared away by threatening looks and voices.

They seem to have assumed that their own will is law; the Professors mere *employes* whose offices know of no tenure but the will of their masters—and the public a mere collection of dupes who will of course confide in their statements, and yield to their suggestions. With small literary pretensions or experience themselves, they have conspired against Literature and Science, against common sense and law. And for what? Because seven Professors asked an investigation into matters relating to the Head of the Institution, to be conducted before the whole Council, and pledged their own characters and standing as to the results of that investigation.

Let it be universally established that Literary Institutions are under no higher protection of law than this—that Professors have

no better tenure for their offices—that matters of vital and solemn importance, cannot at their request receive an investigation before the tribunal of the Trustees—but that to prefer a complaint or to solicit an investigation, is a crime which can be expiated only by an excision—and the death-blow is at once given to the whole educational system of the land. We may turn our Colleges and Universities into Hotels or Manufactories, close up our Lexicons, throw away our Apparatus, send our young men adrift, and invite the return of the dark ages.

And now in conclusion we ask—to what primary and cardinal cause is to be attributed the convulsions and embarrassments of the University of the City of New-York? Is not every candid man, are not the whole public ready to reply—to its Chancellor! He had not the wisdom, the character, the influence, adequate to the undertaking which unhappily for the interests of Science and Religion came into his hands.

All the efforts of the Professors have had but one end in view, to deliver the Institution from the pernicious influence of his presence and measures. What we have done we have done openly. What we have written we have written under our own names. We have been the authors of no anonymous publications either in this or any other city. We have resorted to no trick, no management, no intrigue; we have acted simply as honest men under weighty responsibilities—and we commit our cause and our doings to that sense of truth and justice which is implanted in every human heart, and to Him who on the Throne of Heaven and among the inhabitants of the earth “judgeth righteously.”

HENRY P. TAPPAN,
ROBT. B. PATTON,
J. PROUDFIT,
C. W. HACKLEY,
LEWIS C. BECK,
WM. A. NORTON,
L. D. GALE.

New-York, Oct. 29th, 1838.

APPENDIX.

A.

(See page 5.)

The original terms of subscription to the University were as follows:—

1st. Unless \$100,000 were subscribed by the 1st of August, 1830, the subscriptions were not to be considered as binding.

2nd. Two fifths of the amount subscribed was to be paid one month after notice had been given that the sum of \$100,000 having been subscribed, by the time above mentioned, the subscriptions would be called for; two fifths more, three months after the first payment; and the remaining one fifth, three months after the second payment.

December 2nd, 1830, the following notice was given in the daily papers, signed by seven Trustees.

“UNIVERSITY OF THE CITY OF NEW-YORK.

Whereas, the sum of \$100,000, and upwards, was subscribed before the first day of August last, for the purpose of establishing a University in the City of New-York, public notice of which was given, by the Executive Committee, on the 27th day of July, 1830; the undersigned Trustees, named in the articles of subscription, do, hereby give notice, that the amount subscribed will be called for, by instalments, in accordance with the terms of subscription as follows:—two fifths of the sum subscribed, on the 3rd of January next; two fifths on the 3rd of April next; one fifth on the 3rd of July next. The subscribers are requested to

pay their respective amounts to Mr. John Delafield, at the Phoenix Bank in New-York, who is authorised to receive the same and give receipts therefor.

New-York, Dec. 2, 1830.

In the Evening Post of Dec. 22d, 1830, the following article appeared :—

“For the Evening Post.

MR. EDITOR :

SIR :—Having observed in several papers that the Trustees of the new University have advertised for the subscribers to pay the first instalment upon their subscriptions, I take the liberty of addressing you this note with the request, that should you consider the enquiry of sufficient importance, you will give it a place in your paper. Professing to be a friend of the Institution, and having embarked in it a considerable interest, I am anxious that it should rise upon a solid foundation—one that shall not bear the least shadow of suspicion—[Here follows a statement of the conditions of subscription.] From this statement it is evident that the \$100,000 contemplated by the conditions of the subscription was to be *immediately available* and subject to the payments therein specified, and every individual who subscribed, did it with the understanding that the \$100,000 was not to be considered as raised; and the subscriptions were not to be considered as binding, unless the amount so raised was subject to the instalment thus specified; and very far was it from the belief of such subscribers to suppose that any concealment was practised, and it was believed that the sum of \$100,000 was raised actually at the command of the Institution. But, Sir, what are the facts in relation to this transaction, and I call upon the members of the late Executive Committee to explain it. I would ask that Committee, in the spirit of candour, 1st. If the \$100,000 was subscribed agreeable to the articles of subscriptions, and subject to the instalments by the first of August, 1830?—2nd. If on the first of August the actual subscriptions much exceeded \$60,000, and if the remainder was not made up by what the Executive Committee termed *prospective scholarships*, a sum which could not be realised within fourteen years? 3d. I would ask that Committee if, in their report to the subscribers,

they made mention of this deviation from the original conditions, and stated that they found it impossible to raise the amount by the time specified, and were obliged to resort to prospective subscriptions in order to state that the sum of \$100,000 was subscribed although the actual subscriptions fell short of that amount! These remarks are intended, Sir, to call the attention of subscribers to the subject, that they may investigate it before paying the money, lest the noble object they have in view may be defeated by the failure of the Institution. The late Executive Committee, can alone explain this, and unless a satisfactory explanation is offered I shall decline paying my subscription, and must make a call upon the Committee by name.

Dec. 12th, 1830.

A SUBSCRIBER."

The following, in answer to the above was published in the same paper, Dec. 29th, 1830 :—

" MESSRS. EDITORS :—' A subscriber,' in your paper of Wednesday last, seems anxious to have some information respecting the state of the subscriptions to the New-York University—if he will call on the Secretary, with whom the books and accounts of the University have always been kept, he will learn that more than the whole amount of \$100,000 was subscribed and secured to the Institution before the first of August last, agreeably to the very letter of the terms held forth in the articles of subscription. ' Professing to be a friend of the Institution,' he may be gratified to learn, from the same quarter, that the Institution has a much greater amount of means for the attainment of its ' noble objects' than the \$100,000, and that its prosperity and strength are daily increasing.

ANOTHER SUBSCRIBER."

About this time considerable dissatisfaction and suspicion like that expressed by " a Subscriber," appears to have been abroad, and is known to have excited uneasiness and anxiety on the part of the Chancellor. From circumstances which can be given in detail if necessary, it is quite probable that the article signed " Another Subscriber" was from his own pen. This article does not enter into any explanation of the transaction

mentioned by "a Subscriber," under the title of "Prospective Scholarships," but simply refers the enquirer to the Secretary, (John Delafield, Esq.)

In the month of April, the books were examined, and the whole sum subscribed was found to amount to \$101,200. Of this sum there were subscriptions to the amount of \$45,280, upon most of which nothing had been paid. The subscribers whose names were put down for this sum, were for the most part Clergymen whose circumstances in life rendered it extraordinary that they should become responsible for so large a proportion of the whole subscription. This at once excited suspicion.

There was a book marked "Totals," into which all the original subscriptions made in several other books had been carefully copied.

The subscriptions contained in this book of "Totals" were all represented by the Chancellor as good and valid subscriptions, and on the strength of this representation the subscribers were called upon by the Trustees in the notice above extracted from the Evening Post, to make payment.

The amount of collections actually made upon the original subscriptions up to September 3rd, 1833, appears from the report of a Committee of the Council "appointed to examine the state of the finances," made at that time, to have reached \$102,975. Of this subscription there had been paid,—

In cash,	\$46,206
Secured by mortgage,	2,500
By contract for erecting building and other services,	4,650
Amount which subscribers refuse to pay,	7,050
Balance remaining due,	42,570
	<hr/>
	\$102,975

The same Committee reported that a part of the above sum of \$42,570 had been "*subscribed by ministers on their own responsibility or that of their friends;*" and expressed it as their opinion that \$36,070 of the amount would be collected. This Committee probably had access to the book of "Totals." In December

332, John Delafield, Esq. had resigned the office of Secretary the Council, and handed over the books to his successor, the ev. Archibald Maclay. At the present date the Chancellor affirms that the original subscription books as well as this book marked "Totals" are lost.

It appears then that up to September 3rd, 1833, there had been collected in all \$53,355, and that a balance of "good" subscriptions amounting to \$36,070 remained to be collected on the original subscription of \$100,000 and upwards. Has this balance of \$36,070 ever been collected? Have any new subscriptions been obtained and collected, and to what amount? It is impossible to answer these enquiries from any books of the University which are now accessible. The "Committee of Finance" in the report which was read to the Council June 5th, 1838, state that they are "entirely unable to procure a list of subscribers to a University," confining themselves to the credits in the accounts of the several Treasurers, they find the whole amount of subscriptions collected up to that date, (June, 1838,) to be \$82,100; which is \$29,175 more than had been paid in previous to Sept. 1838."

But although the original subscription books are lost, the names of the "ministers" by whom "a part of the balance of \$42,570 had been subscribed according to the report of the Committee made Sept. 3rd, 1833, and above referred to, have been ascertained. The following names are a part of those which can be satisfactorily proved to have been on the book of "Totals."

W. C. BROWNLEE,	\$1,500
S. H. CONE,	1,500
S. H. COX,	1,500
D. L. CARROLL,	1,500
J. B. HARDENBERGH,	1,500
WM. McMURRAY,	1,500
ARCHIBALD MACLAY,	1,500
CYRUS MASON,	1,500
W. W. PHILIPS,	1,500
W. PATTON,	1,500
P. L. ROUSE,	1,500
B. L. RICE,	1,500

GEORGE DUBOIS,	1,500
REV. MR. WOODBRIDGE,	1,500

The sums here subscribed formed an integral part of the sum of \$100,000, which, in the notice of the Trustees, Dec. 2nd, 1830, (given above,) is stated to have been subscribed before August 1st, 1830, according to the conditions of the subscription.—Now, if these sums were merely nominal, and not *bona fide* subscriptions, and put down for the purpose of making up the amount of \$100,000, then, undoubtedly, a fraud was practised upon the subscribers. Again—if the names of these gentlemen were put down, without their authority or knowledge, then also we have an offence presented of a most serious character. From the subjoined letters, we will leave it to the public to decide whether all the above points of offence are not conclusively established.

The following questions were addressed to all the gentlemen applied to for information respecting the subscription of their names.

1. Were you ever a subscriber of \$1500 to the University of the City of New-York?
2. Did you ever empower any person to place your name for that or any other sum on the Subscription Books of the University?
3. Have you ever been informed that your name was placed on the Subscription Books?

PHILADELPHIA, Sept. 3d, 1838.

REV. AND DEAR SIR :—All that I know on the subject of your inquiries, is, that in the winter of 1829 and '30, or in the following spring, the Rev. Doctor Mathews of your city, asked me whether I had any objection to his assigning me a portion of the Stock of the University of New-York, (the amount I do not recollect,) stating at the same time, that he had a number of shares at his disposal and was making distribution of them among his friends ;—and that such an arrangement would secure to me certain privileges, if I should wish at a future period to place one of my own sons or some other youth in that Institution.

I thanked the Doctor for his kind offer and expressed my willingness to accept the favour, on condition the same could be done without the assumption of responsibilities on my part.

In the month of September, 1830, I moved to the country; since which, I have heard nothing more about the matter.

Very respectfully, yours,

JAMES B. HARDENBERGH.

REV. PROF. PROUDFIT.

PRINCETON, N. J., Sept. 18th, 1838.

DEAR SIR:—I cannot tell with what surprise I read your letter, which has just come to hand. To each of your questions I answer No. No. No. It is impossible I ever could have brought myself either directly or indirectly, by myself or by another, under any sort of obligation, to pay that sum to the University of the City of New-York—(\$1500) for I never have been nor expect to be able to do an act so liberal—I have wished well and still wish well to the Institution—but have never felt myself able to do any thing more.

Yours affectionately,

B. H. RICE.

PROFESSOR PATTON.

NEW-YORK, Sept. 14, 1838.

REV. H. P. TAPPAN,

MY DEAR SIR:—Your note of yesterday is before me. To the questions which you propose I answer in the order in which you make them.

1. "Were you ever a subscriber of \$1500 to the University of the city of New-York?" Answer, Never.

2. "Did you ever empower any person to place your name for that or any sum on the Subscription Books of the University?" Answer, Never.

3. "Have you ever been informed that your name was placed on the Subscription Books?"

Answer. Never until a few days since, when a member of the Council inquired of me whether I had ever made or authorized a subscription to the University. At that time he in-

formed me of the fact that my name was down for \$1500. He then shewed me a paper containing an extract from the Subscription Books, made several years since, by a gentleman of high standing then a member of the Council, in which my name appeared as a subscriber. This was the *first* intimation that I ever had on this subject. I do remember, that several years since, Rev. Dr. Mathews stopped me in the street, and after expressing a desire to have the University embalmed in the piety and prayers of the churches, inquired if I did not think it probable that my church (the Central Presbyterian Church, Broome Street, of which Rev. Wm. Adams is now pastor) would endow a scholarship of \$1500. I replied that I did not think it at all probable, as they were then struggling under a heavy debt. He asked if there were not some men who could subscribe something? I replied I thought not, as those who had the ability felt the importance of reducing our debt. He then asked if I was willing that he should make exertions among my people, I replied certainly, as they were free agents and were of age. From that time until the day the inquiry above alluded to was made, I have never heard another word about a scholarship. Since the time I was first spoken to on the subject, I have been informed that it was represented that it was not expected that I would pay the \$1,500 placed against my name, but that my congregation "with a noble liberality had assumed the payment of this subscription." I have never heard that that people, characterized as they have been and still are for noble deeds, ever assumed the payment of a subscription in my name of \$1,500. Up to the time when I ceased to be their pastor, the subject was never brought before them. I have not the least evidence that this sum was ever paid. The use of my name was wholly unauthorized, and I regard it as a very dark transaction by whomsoever it was perpetrated.

Yours sincerely,

WM. PATTON.

366 GREENWICH STREET, NEW-YORK, Sept. 12, 1838.

GENTLEMEN :—Yours under date of September 8, I received a few moments ago.

I was truly astonished when, for the first time, my colleague

Dr. Knox did, last evening, mention to me that my name stood on the University books as a subscriber for \$1,500.

I assure you, gentlemen, that I never did subscribe the sum of \$1,500, nor any sum whatever ; and what is more, no human being ever mentioned the thing to me, nor asked me to subscribe.

If my name stands on the books for that, or any other sum, it stands there by an impudent and base forgery.

With great respect,

I am Gentlemen,

Yours very truly, &c.

W. C. BROWNLEE.

To Messrs. Professors PATTON and PROUDFIT.

TARRY TOWN, Oct. 22d, 1838.

DEAR SIR :—I have just received your letter, and hasten to inform you of the facts respecting which you enquire. When the effort was being made to establish the University, Dr. Mathews called on me, and informed me that a gentleman, whom he did not name, had left \$6,000 in his hands for the University, which he had the liberty of presenting, in the form of Scholarships, to whom he pleased—that if I would accept of one he would present it to me, which, he remarked, would always entitle me to the privilege of having a pupil in the Institution free of expense, either my own son or any person else whom I might select. I thankfully accepted his offer.

Soon after, I received a printed circular containing the names of the stockholders, and mine among the rest, calling a meeting for the purpose of electing a Chancellor—I attended. Since then I have twice called on the Chancellor to procure the benefit of my Scholarship for indigent young men, but could obtain no satisfactory answer ; and I had come to the conclusion that after the election for Chancellor was over I had no more stock in the University than in the moon, and had ceased to think of it. Your letter quite surprises me, for I conclude that my name does appear, in some way, upon the books of the Institution.

I assure you that I never subscribed or authorised any other person to subscribe for stock on my account, except in the way that I have stated ; and you would oblige me much if you would

inform me in what way my name appears on the books of the Institution.

Yours,

GEORGE DUBOIS.

The question must now arise, who is the individual chargeable with these points of offence?—One thing is certain there is one individual and only one to whom suspicion attaches in this matter—and that individual is Chancellor Mathews. He it appears from the above letters was the only individual who ever consulted any of these gentlemen, *where they were consulted at all*. He endorsed the subscriptions as good and valid. He declared the conditions of the original subscriptions to be fulfilled—and he collected from bona fide subscribers the amount of their subscriptions. He was acquainted with all the financial operations from the beginning and is acknowledged to have been himself the chief financier. He it is in fine, who affirms *the books to be lost*.

If the suspicions above intimated be well founded there is an adequate motive to account for the loss of the books.

B.

(See page 6.)

The following is the second article from the pen of "a Shareholder." The statements are of unquestionable authority:—

"UNIVERSITY OF THE CITY OF NEW-YORK.

In a statement recently made to the public, purporting to come from the Council of the University of the City of New-York, and signed by James Tallmadge, it is said, 'The Council would be doing injustice to the Chancellor, if they omitted to notice the charges of pecuniary delinquency which have been industriously circulated against him. Upon this subject they needed no proof. The facts are within the knowledge, and appear upon the records of the Council.' 'There has never been one cent of defalcation found in his accounts.' To this is subjoined the certificate of the Auditing Committee, that they find upon examining Dr. Mathew's accounts, a balance in his favor of \$5489 97-100.

This certificate proves nothing to the point, when it is considered that the Auditing Committee went into no original investiga-

tion as to the manner in which monies had been received, nor from whom received, but simply noted the amount acknowledged by the Chancellor as received, and examined the vouchers presented by him to prove that the same had been fully disbursed.

The subject of defalcation, we understand, has never been considered by the Council or its Committee of Finance. The manifest reason is, that the Subscription Books having been lost, it would be impossible to determine anything accurately on that subject.

The following statement will afford some light in regard to the rumors which are abroad :—

FACTS OPPOSED TO ASSERTIONS.

Instruction was begun in the University Oct. 1, 1832.

Sept. 3, 1833, the Chancellor, in a report to the Council, states the tuition fees *already received* from students, to be \$4,765.

The Finance Committee, in their report presented June 5, 1838, find on the Chancellor's accounts for the year terminating Oct. 1, 1833, the following amount of tuition fees, acknowledged and accounted for, viz :

Tuition fees received,	\$4,470 00
Repaid to the Professors of Spanish, &c.,	527 50

Net receipts for the year,	\$3,942 50
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which is \$822 50 less than the amount reported by the Chancellor as actually received up to Sept. 3, 1833, as above stated.

February 4, 1834.—The Chancellor presented to the Council a detailed report of the state of the Institution, which is recorded at length on their minutes. In this report, he states that the amount of tuition paid and payable for the then current year, was \$7177, to which he added the estimated amount to be received by the Professors of Spanish, &c.—\$2000 or more—making the whole income from tuition that year, from \$9000 to \$10,000.

The Finance Committee, in their late report above named, find that the amount actually accounted for as received for tuition during the year ending October 1, 1834, exclusive of the amount received by the Professors of Spanish, &c., was only \$5,542 41, which is \$1,634 59 less than the Chancellor reported as paid and payable in February of that year.

In the autumn of 1837, the Chancellor, in a report to the Council, stated the tuition fees for the current year to be	\$8,230
Rents for the same year,	6,614
	<hr/>
	\$14,844

The Finance Committee, in their report above named, state the actual amount of receipts accounted for during the same year for tuition to be	\$5,239
For Rents,	5,650
	<hr/>
	\$10,889

Difference,	\$3,955
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In most of the estimates and reports of the Chancellor concerning tuition fees, &c. the amounts are stated in gross sums, without memorandums.

The cost of the large Chapel, the Finance Committee report to have been, \$19,933 44, which is several thousand dollars more than it had been stated by the Chancellor, much of which would not have been incurred by the Council, had they been aware of the amount.

The Finance Committee report the Philosophical Apparatus to have cost \$5,836 90. The Chancellor had stated the cost at rising of \$10,000.

The actual cost of the University building and ground, including interest on money borrowed for its erection, the Finance Committee report to be \$200,000; and yet the Chancellor, in a report presented to the Council on the 3d of May last, makes the following statement: 'The building which we have erected is confessedly an ornament to our City and our State, &c. A vigilant economy has been used in its erection, which brings its actual cost much below what may now be considered its real value. Indeed, the money expended in the completion of the third and fourth stories and the Chapel, is now producing to the University a yearly income of from ten to twelve per cent, on the amount thus laid out.' How could this be so, when the cost of finishing the Chapel alone was nearly \$20,000, and the rents actually received from the whole building were less than \$6,000? The fact

is, the amount received on the whole property of the University, which has cost, as above stated, \$200,000, and has also incurred a debt in addition to its original cost of \$57,000 making in all \$257,000, is not much above two per cent. on the amount thus expended.

A Committee of the Council in an able report dated September 1833, estimated the amount of good subscriptions at that time to be

\$89,425 00

Interest received on moneys loaned
to that date

3,085 00

Total,

\$92,510 00

There had then been received into the
Treasury,

\$53,355 00

Interest, as above,

3,085 00

\$56,440 00

Balance remaining to be collected,

\$36,070 00

This sum the Committee judged would be collected. But the whole amount collected and accounted for up to June, 1838, was only \$82,530. The amount collected by the Chancellor and all others since September, 1833, is less than \$28,000. To have collected this amount in five years will be regarded as no very striking evidence of efficiency, when it is remembered that at the beginning of that period the Chancellor had in his hands a *good* subscription of \$36,070, with the field open before him for procuring new subscribers. May not this signal failure, in *part* at least, be accounted for by the fact that some ten or fifteen clergymen whose names were down for \$1,500 each, and who were probably regarded by the Committee of 1833, as *bona fide* subscribers, were wholly ignorant that their names had been thus used without their consent, and of course have never been called on for their subscriptions.

The above are only specimens of numerous statements which we are assured might be gathered from the documents of the Council, in which the reports of the Chancellor and of Committees conflict with each other, and cannot be reconciled. The Shareholders and the public will judge where the truth is and go-

vern themselves accordingly. If (to borrow an expression from the communication of the Council published in the Express, of the 10th inst.) the citizens of New-York may regard this as '*their own University*,' it stands them in hand to look to it, and if possible save it from the ruinous consequences of the course of things indicated in the foregoing statements.

Oct. 13

A SHAREHOLDER."

C.

(See page 6.)

MISSTATEMENTS TO THE BOARD OF REGENTS.

The Chancellor (See Report to the Board of Regents, page 35,) estimates the value of the University building together with the lot, at

\$260,000

The actual cost as reported by the Finance Committee, including interest upon money borrowed, is,

200,000

Difference, 60,000

It is well known not to be worth more than its cost—it is believed that it will not sell even for this, because the building has not been put up at an economical rate.

The Chancellor estimates the Apparatus at

\$10,000

The Finance Committee report its cost

5,836

Difference, 4,164

The Chancellor estimates the Library at

7,000

The Finance Committee report its value to be

4,147

Difference, 2,853

The Chancellor states the debt at "*something over*"

\$110,000

The Finance Committee report the debt on the first of May last to be

170,583

This "*something over*" amounts to 60,583,

The whole number of students the Chancellor (Report, &c. page 32,) states to be

364

The Professors affirm that this number and indeed nothing like this number, has been within the walls of the University, during any one year. It is known that the Chancellor has used various

expedients to swell the number—for instance—many of the students under Dr. Nordheimer, the Professor of Hebrew, &c. were counted three times, because they attended him in three different languages. The students of the Episcopal Theological Seminary, it is believed, were also reckoned, because they attended Dr. Nordheimer in Hebrew. It is believed, also, that the students of Professors of Modern Languages, taught in their own houses, and in different parts of the city were added ; and more than all, Professors Anthon, Whittingham and Turner, because receiving lessons from Dr. Nordheimer, were reckoned among the students of the University. Now if the design of the Chancellor were to state the number of individuals receiving instruction in every way and in every branch from Professors of the University, the number possibly might be made out. But what an imposition, to put them down simply as students—thereby giving the impression that they are students under the common idea attached to the word—e. g. as we would say Yale College has 364 students.

The Chancellor after stating that there are 153 under graduate students adds, "The others (211) were generally engaged in those higher branches of Science and Letters, for which it has been a special object of the University to provide instruction." And again (page 35) "many of those who are pursuing their studies in the higher departments of Science and Letters, are graduates from different Literary Institutions in various parts of our country." This is entirely a misstatement. The Faculty of Science and Letters had under their instruction no "graduates from different Literary Institutions," unless a small class pursuing the study of Civil Engineering with Professor Douglass, and the students of Dr. Nordheimer, as above given, be reckoned. In addition to this, if the Chancellor by any sort of estimate did arrive at the number 211, the greater part of this number must have been composed of young gentlemen, who instead of being engaged in the study of "higher branches of Science and Letters" were simply engaged in the study of some modern language with a Professor of the University, in some place out of the University building.

The Chancellor proceeds (page 32) "for which (i. e. for these higher branches of Science and Letters,) it has been a special object of the University to provide instructors"—and (page 35)

"Owing to the pressure of the times, and the difficulty of collecting old subscribers, (the nominal subscriptions ?) or of obtaining new, (How many did he obtain before the pressure ?) The University has been constrained to reduce the salaries of its officers for the present. (The highest had been \$1,800 for one year and a half and were put back again to \$1,500.) The Institution is looking with much anxiety for aid from the State, in order to carry out and sustain its extensive and liberal plans." By making these representations of the exertions of the Institution to procure and sustain instructors in "higher branches of Science and Letters ;" and by representing that "owing to the pressure of the times the University had been constrained to reduce the salaries of its officers for the present ;" and that, "it was looking with much anxiety for aid from the State, in order to carry out and sustain its extensive and liberal plans," he was enabled to procure the annuity of \$6,000 for the payment of "Professors and Teachers." Upon his return he immediately took measures to divert the bounty of the State. The tuition fees for the last two years in contravention of a resolution of the Council, expressly appropriating them to the payment of Professors had been otherwise disposed of, and the Professors in consequence reduced to a state of great disquietude and embarrassment—yet no sooner had the appropriation of \$6,000 per annum been granted by the State, than the Chancellor endeavored to obtain from the Finance Committee full \$2000 of this sum to meet his private claims, although the whole amount was insufficient to cover the arrears of the Professors.* He next succeeded in obtaining the passage of a resolution in the Council annulling the former resolution in relation to the fees of tuition, and henceforth appropriating them to the general purposes of the Institution—and instead of carrying out the "extensive and liberal plans" of the University according to his pledge, he strained every nerve of intrigue, injustice and violence, to curtail them.

* After he had failed to obtain this appropriation from the Finance Committee, he went immediately to one of the Professors and made a merit to him of having voluntarily relinquished his claim for the benefit of the Professors. He repeated the same within a few days to other Professors.

Seven Professors were ejected from the duties of their Professorships, and the University term October 1st, opened with

Rev. J. M. MATHEWS, D. D. Chancellor.

Rev. CYRUS MASON, Professor of the Evidences of Revealed Religion and Belles Lettres.

B. F. JOSLIN, M. D. Professor of Natural Philosophy, Mathematics, &c.

Mr. JOHNSON, Assistant Professor of Languages, &c.

Two Assistant Teachers pro. tempore, and about forty students.

D.

(See page 6.)

The following extract from the Statutes and the statement subjoined in parenthesis, is appended to the address of Gen. Tallmadge delivered May 20th, 1837, on occasion of the dedication of the University building :—

“ A Free Scholarship confers the right to have one student at a time educated at the University, during the continuance of such scholarship, free from all charges of tuition.

Any contributor to the amount of one thousand dollars, may found and name a free scholarship during the time of his natural life. And any contributor to the amount of one thousand five hundred dollars, may found a free scholarship in perpetuity.

Any number of contributors may unite to create a free scholarship in perpetuity, on behalf of any Benevolent or Religious Society, to be held in the name of such society.

Each contributor, or any number of contributors, to the amount of ten thousand dollars or more, shall have the privilege of founding and naming a Professorship ; subject, however, to the government of the University ; and of nominating, by themselves or their representatives, from time to time, during the term of twenty-one years, the Professor thereto, he being subject to approbation and removal as in other cases ; and the interest or income of the sum subscribed shall be appropriated to the salary of the Professor.

(Agreeably to the above Statutes, one Professorship, viz. that of the Evidences of Revealed Religion, has been endowed by the contribution of fifteen thousand dollars, and forty-two free scholarships have been founded by contributors belonging to the Baptist, the Episcopal, Reformed Dutch, and Presbyterian denominations.)”

The Free Scholarships here stated to have been founded amount at least to \$42,000. On the endowed Professorship of

the Evidences of Revealed Religion about \$10,000 have been paid, which makes a total of \$52,000.

Now all the Scholarships as well as the endowment of the Professorship as far as paid in, have been invested in the building.

The actual cost of the University building and grounds, including interest on money borrowed for its erection, the Finance Committee report to be \$200,000"—The University has "also incurred a debt in addition to its original cost, of \$57,000, making in all \$257,000, "The rents actually received from the whole building were less than \$6000"—Hence "the amount received on the whole property of the University is not much above two per cent. on the amount thus expended." (See statement of a Shareholder, Appendix B.)

The Scholarships therefore and the endowment of Prof. Mason yield "not much above two per cent."—Will this satisfy the Donors? Will it pay the tuition fees of students placed on Scholarships? Will it pay the salary of the Professor!—\$52,000 at six per cent. yield \$3120 per annum. At two per cent. it yields \$1040 per annum. which makes an annual loss of \$2080. Professor Mason states that the Chancellor collected a large amount of the endowment from the Donors without authority and a part he obtained through Prof. Mason himself, assuring him that as he received the money from him and directly from the Donors he took care to have it adequately secured.—But he, (Professor Mason,) afterwards found that it had not been secured. The money was expended in finishing the Gothic chapel and he for some time had not even a receipt to shew for it either from the Chancellor or the Treasurer.

E.

(See page 34.)

§. "No trustee of a college or academy, shall act as a regent of the University, and no regent of the University shall act as trustee of any college or academy; and if any such trustee shall be appointed a regent, or a regent shall be appointed a trustee, he shall elect in which office he will serve, and give notice of

such election to the authority by which he shall be appointed, within sixty days of the time of his appointment ; otherwise such appointment shall be void."—Revised Statutes, vol. i., p. 464, 2d ed. of 1829.

John Lorimer Graham, Esq., was elected a Regent of the University April 17th, 1835 ; he was elected a member of the Council of the University of this city Oct. 7th of the same year. Several able lawyers, who have been consulted on this subject, have unanimously pronounced his tenure of the latter office illegal and void. We subjoin the opinion of Daniel Lord, Jr., Esq. :

" A gentleman who is regent of the University of the State, is afterwards elected a member of the Council of the University of the City of New-York.

" He assumes to hold both offices, and has continued for several years to act as a Councillor of the University. He has resigned neither office.

" Is he entitled to act in both : and if not, which office is held legally ?

OPINION.

" By the Revised Statutes, no Regent of the University shall act as Trustee of any College or Academy ; and if appointed Trustee, he shall elect in which he will serve, and give notice to the authority by which he shall be appointed in sixty days, otherwise such appointment shall be void.—1 R. S., 464, § 53.

" The provision is positive : the reason is, the incompatibility of a body of supervisors, being in part composed of those whose concerns are to be inspected : a violation of this rule is a positive contravention of a rule of law, which cannot be cured by acquiescence of either body, nor by any power short of that of the Legislature. The rule is not a rule for the benefit of colleges, and which they can waive : it is a rule of the policy of the State as to its literary government, and which cannot be waived.

" Then is the Councillor of the University of the City a Trustee ?

" By comparing the powers and duties of the Trustees of Colleges with those of Councillors of the University (compare 1 R. S. 460, § 36, with Acts of Sess. 54, ch. 176, § 283) they are identical as far as relates to any government or management which is subject to the rule of the Regents of the University.

" Is the University a college ? It cannot be doubted that it is. There is nothing, so far as this question is affected, in which it differs. It is a collection of professors and students under a corporate government, aided by the corporate organization for literary

purposes, with the power of granting diplomas, having the usual privileges of such testimonials.

"It is therefore my opinion that the office of Councillor is incompatible with that of Regent: that the former being the more recent appointment, is void: that the continuance in office of such Councillors is illegal, and that no acquiescence of the University of the City of New-York can absolve the illegality: and that it is the right of the Council to declare his seat vacant, and to fill the vacancy.

DANIEL LORD, JUN."

JULY 26, 1838.

When this matter was brought forward at a meeting of the Council, by W. B. Crosby, Esq., sustained by the above written opinion of a well-known lawyer in our city, the Chancellor and his friends, (who had then a majority,) refused even to *hear* the opinion, or suffer the question to be agitated—so that this gentleman holds his seat, and votes in the Council, *in open violation of the laws of the State.*

F.

(See page 39.)

The retrenchment scheme reported by Dr. Mathews July 26th, contemplates, in the reorganization of the Professorships, the following reduction of expense:—

1. The substitution of an Assistant Professor of Languages for one of the Professors of Languages, making a saving of the difference between the salary of the first (\$1500,) and the salary of the last (\$750,)	\$750
2. The abolishment of the Professorship of Natural Philosophy and Astronomy,	1,000
5. The abolishment of the Professorship of Geology and Mineralogy,	250

Amount of retrenchment,	\$2,000
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The Professor of Geology had always expended the whole amount of his salary in adding to a private cabinet of minerals, which was placed in a room of the University for the use of the students, and which, together with the private cabinet of another

Professor, formed the only collection of minerals for the use of the Institution.

This was the retrenchment designed to meet the immense pressure of a debt of \$175,000—and this was to be effected at the expense of the course of instruction—and in the very face of the Chancellor's report made to the Board of Regents a few months before, in which he remarks—"The University has been constrained to reduce the salaries of its officers for the present. The Institution is looking with much anxiety for aid from the State in order to *carry out its extensive and liberal plans.*" After the \$6,000 from the State had been obtained for the payment of "Professors and Teachers," this sum, together with the tuition fees, was more than sufficient to pay the salaries of the Professors at the then existing rate, and might have enabled the Institution to restore the former rate, the reduction of which is so lamented by the Chancellor.—But instead of restoring this rate—instead of carrying out "*its extensive and liberal plans,*" the bounty of the State is made the occasion of abolishing Professorships.

The scheme of retrenchment brought forward in the report of July 26th, it appears was not finally adopted in all its parts. That scheme proposes to give \$1500 each to three Professors—\$1200 to one—\$1000 to one—and \$750 to an Assistant Professor.—But in a statement made to the public, Oct. 1st. 1838, and signed by "James Tallmadge, President of the Council of the University of the City of New-York," the following is given as the arrangement finally determined upon :—

"The Council, therefore, determined on a reorganization which would require the labor of each Professor three hours during each day, thereby dispensing with the expense of one third of the Professors, and yet affording the same amount of tuition to the student. It was, in addition, determined, that the salary of each Professor should be fixed at \$1000, *with an allowance of seven dollars for each student taught by each Professor*, in order that the Professors might have that additional incentive in advancing the interests of the University."

Now let us examine this *retrenchment* to see if indeed it be a retrenchment.

The old organization was as follows :—

One Professor of Intellectual and Moral Philosophy, at a salary of	\$1,500
One Professor of Greek Language and Literature,	1,500
One Professor of Latin Language and Literature,	1,500
One Professor of Mathematics,	1,500
One Professor of Chemistry and Botany,	1,000
One Professor of Natural Philosophy and Astronomy,	1,000
One Professor of Geology and Mineralogy,	250
One Professor of Evidences of Revealed Religion and Belles Lettres,	1,200

Total	\$9,450
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The new organization is as follows :—

One Professor of Languages, at a salary of	\$1,000
One Professor of Mathematics and Natural Philosophy,	1,000
One Professor of Intellectual and Moral Philosophy, and Logic, who shall also instruct in History,	1,000
One Professor of Chemistry, Geology, Mineralogy and Botany,	1,000
One Professor of the Evidences of Revealed Religion, and Belles Lettres,	1,000
One Assistant Professor of Languages, &c.	750

\$5,750

In addition to this there is to be "an allowance of seven dollars for each student taught by each Professor." The income realized from this source will of course depend upon the number of students; but as this arrangement is intended to act as an "additional incentive" to the Professors, "in advancing the interests of the University," we are altogether within bounds if we calculate for the same number of students in the undergraduate course, which were collected under the old organization. Now the highest number which ever belonged to this course, is that given by the Chancellor in his report to the Board of Regents, viz. 153, and the average number may be fairly put at 125. In the course of instruction all these students attend upon the above named Professors. Now General Tallmadge states also, that this re-organization will "require the labor of each Professor three hours

during each day." From this we of course infer that each Professor will teach three classes. Upon an average therefore, each Professor will be engaged in teaching three fourths of 125 students, that is 93 students. Each Professor will therefore add to his income from this source \$651; as there are six Professors this will amount to

\$3,906

Add to this the amount of their salaries,

5,750

Total expense of new organization,

9,656

Total expense of old organization,

9,450

In favor of old organization,

206

It is to be remarked here that in this statement we have reckoned the salary of the Assistant Professor of Languages at \$750 according to the report of July 26th. In Gen. Tallmadge's statement however, no distinction is drawn; this will make a farther difference in favor of the old organization of \$250. We have yielded too much also in taking the average number of students at 125. After making the boast that this new organization was designed to act as an "additional incentive in advancing the interests of the Institution," we are justified in taking as the least number to represent the result of this "additional incentive," the highest number ever collected under the old organization, viz. 153, as the average number under the new; and then the difference in favor of the old organization will be farther increased by \$882. The comparison will then stand as follows:—

Total expense of new organization,

\$10,788

Total expense of old organization,

9,450

Difference in favor of old organization,

\$1,338

The above *demonstrates* that retrenchment was not the motive, but the *pretext* merely, for the re-organization.*

* It is a remarkable fact which ought to be viewed in connection with these measures, that the same pretext of retrenchment was resorted to by the Chancellor in his difficulties with the Professors in 1833.

Retrenchment and economy had formed no part of Dr. Matthews' previous history, at least in relation to the University : and who will believe that by a remarkable coincidence they became a part of his history just when they answer the purpose of preventing the investigation asked by the Professors ?

G.

(See page 43.)

As the card of the Professors, advertising the course of studies for the coming term, has been construed into disrespect to the Council, (a construction which never occurred to the Professors as possible till they were informed at once of their supposed offence and of the penalty by which it had been followed,) it is deemed proper to publish the opinion of Daniel Lord, Jun., and Hugh Maxwell, Esqrs., given orally at the time and subsequently drawn up in writing, which formed the basis of their action on that occasion. Our motive in publishing the advertisement was to answer the inquiries and to relieve the suspense and anxiety of the students.

CASE.

1831. April 12th. By the act incorporating the University of the City of New-York, "the government and estate of the University shall be conducted and managed by a Council composed of thirty-two shareholders and the Mayor and four members of the Common Council of the City of New-York for the time being. s. 2. Eleven members shall be a quorum for the transaction of business : but no real estate shall be conveyed, nor appointments to office made (except to supply vacancies in the Council) other than by an affirmative vote of seventeen members. s. 7. The Council shall have power to appoint its own officers, and all the officers of the University, to establish ordinances and by-laws not contravening the laws or constitution of this State or of the United States, and to expel any of its members for a violation thereof. s. 13.

Upon the organizing of the University under this Charter, certain statutes were passed, printed in 1832, enacting among other things,

Ch. 3. That the Council should hold one stated meeting in each month, the time and place to be fixed annually at their first

meeting after the annual meeting of the shareholders, and not to be changed except by a vote of the Council. They may adjourn from day to day, and extra meetings may be called by the President at his discretion, or at the request of any three members of the Council.

Ch. 7. Professors and Assistant Professors in the University shall be appointed by the Council, subject to removal by the same authority. They may be nominated at one stated meeting and elected at a succeeding one, notice of the business to be transacted having been previously given. They shall be removed only by a vote of a majority of all the members of the Council at a meeting to be appointed for this express purpose, of which notice shall be given.

The Council shall from time to time designate the branches that shall be taught, and prescribe general rules respecting the government, the terms of admission and the several courses of instruction, but the immediate superintendence and all the details of instruction and discipline shall be under the control of the Chancellor and Faculties respectively.

Professorships were established forming a faculty of Science and Letters, having

One Professor of Intellectual and Moral Philosophy.

One Professor of Greek Language and Literature.

One Professor of Latin Language and Literature.

One Professor of Mathematics.

One Professor of Natural Philosophy and Astronomy.

One Professor of Chemistry and Botany.

One Professor of Geology and Mineralogy.

One Professor of Evidences of Revealed Religion and Belles Lettres.

And Professors with salaries were appointed in and before the year 1836.

1838, August 30th. At an ordinary meeting of the board and without notice of any intention to remove any of the Professors, certain resolutions were passed.

1. *Resolved*, That it is essential to the permanent welfare of the University, so to arrange the plan of instruction as to bring the ordinary expenses within the ordinary income of the Institution.—14 ayes, 5 noes.

4. *Resolved*, That until the further order of this Council, the Faculty of Science and Letters for the instruction in the undergraduate studies shall consist of the following Professorships, viz:

One Professor of Languages.

One Professor of Mathematics and Natural Philosophy.

One Professor of Intellectual and Moral Philosophy and Logic, who shall instruct in History.

One Professor of the Evidences of Revealed Religion and Belles Lettres.

One Professor of Chemistry, Geology, Mineralogy, and Botany, and one Assistant Professor of Languages, who shall aid in the other studies of the Freshman year, as occasion may require.

6. *Resolved*, That all previous enactments or resolutions of Council, which may be inconsistent with the above arrangements, be, and hereby are rescinded.

Upon these resolutions it is asked whether the present Professors are displaced from being Professors in the University?

All the sections of the Charter and Statutes and all the resolutions appearing to bear on this question are above stated.

OPINION.

The first consideration is, what is the proper construction of the resolutions as to the displacement of Professors? They are not on their face a displacing of Professors, but merely a combination of branches, taught by the Professors in a different mode: a different arrangement of the same studies, by which the services of one gentleman or two, out of seven, may be released. It is not an abolishing of the old Professorships unless such old Professorships be inconsistent with the above new arrangements.—Now, what is the inconsistency? There was, at the date of the resolutions, a Professor of Latin, and one of Greek. Now, there is a Professor of Languages and an Assistant Professor of Languages. It is not apparent that such Professorships are inconsistent with the former, or in substitution of them, or that the same instructions are not to be given by the same Professors. There is no inconsistency between the old and the new forms of instruction. So, of the Professorship of Moral Philosophy, the Professorship under the resolution is to comprehend the same branches, together with Logic and History, in no manner inconsistent with the Professorship as constituted.

The professorships of Chemistry is now also to embrace Geology, Mineralogy, and Botany, branches not inconsistent with the professorship of Chemistry, as formerly constituted.

The professorships of Mathematics and of Natural Philosophy and Astronomy, are now to be conducted by one professor; this is not a destruction of both professorships, but a mere combining of other duties in one individual.

The other professorship of Evidences of Revealed Religion is untouched,

Now, is there any inconsistency in the professors on the former plan continuing their instructions under the new plan? The branches which are united are not incompatible. That arrangement, which imposes the duties of the two professors of Mathematics and of Natural Philosophy upon one individual, and thus render it uncertain, which may be induced to retire, cannot destroy all the seven professorships and displace the professors by mere inference. Such cannot be the legal construction.

And since the professorships are places for learned men, situations of a character at least somewhat permanent for men whose conditions in life cannot be easily altered, and whose avocations exact that tranquility of mind which requires exemption from the fear of sudden change, it is not to be admitted or implied that it was the intention of the council of a literary body to remove them, and that in so indirect a manner.

Besides, the statutes of the University require a meeting to be appointed for the express purpose of removing professors, of which notice should be given. To adopt resolutions intending to remove six out of seven professors, without any such notice or appointment, and by mere inference, is not to be supposed of men constituting the council of a college, and a construction of the resolutions to this effect is not to be admitted.

The Council may find some embarrassment which of the Professors of Mathematics, and of Natural Philosophy, of Chemistry, and of Geology, &c., shall be induced to retire. But there is no such impossibility in this as to displace all. Ordinary justice in compensation to them for the change, will relieve all embarrassment.

If, however, such wholesale removal should be deemed the necessary import of these resolutions, the question will arise, whether resolutions with this effect are regular and valid?

The professors are engaged at an annual salary: they are told the tenure of their office by the statute of the Institution. By these the professors are to be appointed on a nomination at one meeting and a vote at the next regular meeting. They cannot be removed except by a majority convened on notice, for the express purpose, and by a majority of all the members of Council. These statutes are not repealed. Now measures cannot be adopted which by necessary inference would remove all the professors, without the notice and without the number of votes here required. If so, nothing would be more fluctuating and precarious than this mode of organization and government: for a majority of six out of eleven, (the quorum by the Charter) might at any meeting, by a single majority vote, abolish all the professorships, and turn out all the professors. This is so contrary to the nature and existence of a literary body, so radically

